

# COPYRIGHT MANUAL



January, 2011

# COPYRIGHT MANUAL

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## **Forward**

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Mark W. Feldhausen, Ph.D.  
Associate Superintendent of Educational Services

Legal Review by Young & White, District Legal Counsel  
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District personnel shall comply with the requirements of The Copyright Act.  
This manual is intended to be a resource for Copyright Act compliance, along  
with District Policies and Rules.

## I. Definitions

As used in the Copyright Manual, the following words and terms have the meaning set forth.

**Collective work:** A collective work is a work, such as an encyclopedia or anthology, that includes a number of separate smaller works.

**Copyright:** A form of protection provided by the laws of the United States for "original works of authorship" including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. "Copyright" literally means the right to copy, but has come to mean that body of exclusive rights granted by law to copyright owners for protection of their work. Copyright protection does not extend to any idea, procedure, process, system, title, principle, or discovery. Similarly, names, titles, short phrases, slogans, familiar symbols, mere variations of typographic ornamentation, lettering, coloring, and listings of contents or ingredients are not subject to copyright.

**Copyright Free:** Any material whether print or non-print that falls within public domain.

**Copyright notice:** The copyright notice consists of three elements. They are the "c" in a circle (©), the year of first publication, and the name of the owner of copyright. A copyright notice is no longer legally required to secure copyright on works first published on or after March 1, 1989, but it does provide legal benefits.

**Educational Institutions:** "nonprofit organizations whose primary focus is supporting research and instructional activities of educators and students for noncommercial purposes".

**Educational multimedia projects:** Programs that "incorporate students' or educators' original material, such as course notes or commentary, together with various copyrighted media formats including but not limited to, motion media, music, text material, graphics, illustrations, photographs and digital software which are combined into an integrated presentation".

**Educational purposes:** "systematic learning activities including use in connection with non-commercial curriculum-based learning and teaching activities by educators to students enrolled in courses at nonprofit educational institutions".

**Educators:** "faculty, teachers, instructors, and others who engage in scholarly research and instructional activities for educational institutions".

**Face to face instruction:** The traditional classroom or face-to-face instruction is when the instructor and the students of a nonprofit educational institution are in a place devoted to instruction and the teaching and learning take place at the same time.

**Fair Use:** "Fair use" is the right of the public to make reasonable use of copyrighted material in special circumstances without the copyright owner's permission.

**First sale doctrine:** The "first sale" doctrine recognizes that ownership of a copyright is different from ownership of a material object that is the subject of a copyright. For example, owning a copy of the book "Where the Red Fern Grows" does not mean that you own the copyright in the story. Under the first sale doctrine, the owner of a lawfully-made copy of a copyrighted work may sell, rent or transfer that copy or publicly display that copy without the Copyright Owner's Permission. That means you can buy a book or a videotape and give it to a friend or sell it at a yard sale, but you cannot make a copy of that book or videotape and sell or give that copy away.

**Lawfully acquired:** Copies or user rights "obtained by the institution or individual through lawful means such as purchase, gift or license agreement but not pirated copies".

**License:** A license provides permission to act or to engage in an activity otherwise unlawful or not allowable without such license. For example, a license may be granted to reproduce a copyrighted work, which would not be an allowed activity without the license. There are a number of issues regarding the scope of required licenses in the area of digital information.

**Mechanical license:** Permission from the copyright holder, typically the composer or their publisher, to legally record a copyrighted song. A "compulsory mechanical license" is available to anyone else who wants to record and distribute the work in the United States. The mechanical license will require that person to pay license fees at the "compulsory" rate set in Section 115 of the Copyright Act.

**Medium:** A "medium" is a type of artistic technique or means of expression related to the materials used or the creative methods involved in the production of the work. The plural form of medium is "media" and paintings, films, books, TV, and the internet are all examples of different media.

**Multimedia:** "material is stored so that it may be retrieved in a nonlinear fashion, depending on the needs or interests of learners".

**Musical Composition:** A "musical composition" is a musical work, such as a song or piano piece, created by a composer using melody (tones and rhythms), harmony (chords), and lyrics. A musical composition is not in audible form; it is the combined notes and lyrics written on sheet music.

**P2P:** Peer to Peer networking: A type of network where computers communicate directly with each other, rather than through a central server. In recent usage, peer-to-peer has come to describe applications in which users can use the Internet to exchange files with each other directly or through a mediating server.

**Performing Rights:** An owner of a copyright has many exclusive rights, including the right to perform his or her own song (the musical composition) in public. These rights are known as "performing rights," and other users need permission of the copyright owner to play the song on the radio or television, or in clubs, concerts, and amusement parks. Usually, the user is charged a fee called a Royalty. To make this easier, organizations called "performing rights societies" help

control and collect the royalties paid for these performances on behalf of the songwriter or other copyright owners. There are three main societies in the United States that do this: ASCAP (American Society of Composers, Authors, and Publishers), BMI (Broadcast Music Incorporated), and SESAC (Society of European Stage Authors & Composers). Most foreign countries also have organizations that serve the same purpose.

**Public Domain:** The public domain is not a place. A work of authorship is in the “public domain” if it is no longer under copyright protection or if it failed to meet the requirements for copyright protection. Works in the public domain may be used freely without the permission of the former copyright owner.

**Public Performance:** Public performance is one that occurs "in a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered." (ASCAP) A public performance also occurs when the performance is transmitted by means of any device or process (for example, via broadcast, computer network, or other means) to the public. In order to perform a copyrighted work publicly, the user must obtain performance rights from the copyright owner or his representative.

**Royalty:** In exchange for a license to do something with a copyrighted work, the person who wants to use the work (referred to as the "licensee") will usually have to pay a certain amount of money, called a "royalty," to the copyright owner or other person licensing out the work. For example, if the author of a book licenses the right to a company to make and sell a software game based on the book, the author may require the company to pay him 15% of the money it receives from sales of the software game.

**Royalty Free:** Material that may still be copyrighted but the author has elected to wave collection of royalty fees for certain uses.

**Sound recording:** A "sound recording" describes the capturing of a musical performance and its sounds in any format, such as a compact disc (CD) or MP3 file. In copyright law, this is often referred to as the "Fixation" of sound. Copying a recording, such as making a CD from a friend's CD or burning a CD from another disc, is among the rights covered by copyright law.

**Synchronization License:** A "synchronization license" is an agreement by which the copyright owner of musical composition allows its use in a visual work.

**Virtual Instruction:** Virtual instruction is when a course is taught either solely online or when face-to-face instruction occurs online such as with ANGEL/Blackboard and/or other course management systems. Virtual instruction may include digitally transmitting class materials to students. This transmission is authorized under the TEACH (Technology Education and Copyright Harmonization) Act which is a part of the copyright law and all therein are subject to copyright guidelines.

**Warez:** The term warez refers to pirated or illegal software. Software or sites labeled as warez usually contain illegal-material and should be avoided and reported.

## **Acronyms Used in Copyright Manual**

AIME: Association for Information Media Equipment

ALA: American Library Association

ASCAP: American Society of Composers, Authors, and Publishers

BMI: Broadcast Music Incorporated

DMCA: Digital Millennium Copyright Act

DRM: Digital Rights Management

HFA: Harry Fox Agency

MPAA: Motion Picture Association of America

MPLC: Motion Picture License Corporation

SESAC: Society of European Stage Authors & Composers

TEACH Act: Technology Education and Copyright Harmonization Act

Stanford University Copyright and Fair Use Center, [<http://fairuse.stanford.edu/>], January 2011)

Copyright Basics: U.S. Copyright Office, [<http://www.copyright.gov/circs/circ1.html>], (February 1999)

## II. Applicable District Policies and Rules

### Human Resources

- 4155 Code of Ethics <http://bit.ly/gztd2G>
- 4155.1 Standards of Ethical and Professional Performance <http://bit.ly/fsIyd7>
- 4156 Copyright Compliance <http://bit.ly/hPwK3e>
- 4156.1 Copyright Compliance - Accountability for Compliance <http://bit.ly/etezWe>

### Pupil Services

- 5800 District Computers, Software, and Data Files <http://bit.ly/fQ0B9o>
- 5800.1 Compliance with Applicable Law and  
Use of District Computers <http://bit.ly/gp9rXL>

### Curriculum and Instruction

- 6265 Copyright Compliance <http://bit.ly/hLhD3y>
- 6625 School Libraries
- 6625.1 School Libraries
- 6625.2 School Libraries
- 6810.1 Access to School Materials and Documents <http://bit.ly/gWsBFT>

### Technology

- 7100 Use of District Computers, Software, and Data Files <http://bit.ly/gpPELo>
- 7100.1 Compliance with Applicable Law <http://bit.ly/gEMrYc>
- 7305 Web Publishing <http://bit.ly/gOyOz7>
- 7305.1 Web Publishing <http://bit.ly/fJ71sX>

The accompanying links above were active at the time of publication. If links do not work, go to [www.mpsomaha.org](http://www.mpsomaha.org) / Board of Education / Board Policies for identified policies and rules.

See Appendix A for identified policies and rules.

### III. Copyright Guidelines

It is the intent of the *Millard Public Schools* (the “District”) to adhere to the provisions of the U.S. Copyright Act (17 U.S.C. § 101 et. seq.). The employees of the District are prohibited from copying materials not specifically allowed by fair use, copyright law, licenses or contractual agreements or permission. The District disapproves of unauthorized duplication in any form. Employees who willfully disregard the District’s copyright policy (4156) are in violation and do so at their own risk and assume all liability. Every attempt will be made to assist employees who need information so that they can perform their duties within the intent of the law. Workshops on copyright law will be made available to staff as needed.

1. Employees who make copies and/or use copyrighted materials in their employment are expected to be familiar with published provisions regarding “fair use” of copyrighted materials.
  - a. The “fair use” of a copyrighted work, including use by reproduction in copies, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research, may not be an infringement of copyright.
  - b. The factors to be considered in determining whether the use made of a work in any particular case is a “fair use” are as follows:
    - i. The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit educational purposes;
    - ii. The nature of the copyrighted work;
    - iii. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
    - iv. The effect of the use upon the potential market for or value of the copyrighted work.
2. Employees who use copyrighted materials that do not fall within the “fair use” guidelines, must be able to substantiate that the materials meet one of the following criteria:
  - a. have been purchased from an authorized vendor and a record of the purchase exists;  
or
  - b. are covered by a licensing between the copyright owner and the employee; or
  - c. are being previewed to reach a decision about future purchase and have been required by the District curriculum office.
3. Unlawful copies of copyrighted materials may not be produced on District owned equipment.
4. Unlawful copies of copyrighted materials may not be used with District owned equipment, within District owned facilities or at District sponsored events.
5. Any legal protection afforded by the District will not be extended to employees who unlawfully copy and/or use copyrighted materials.

## **IV. Books and Periodicals**

### **Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with Respect to Books and Periodicals**

Published in House Report 94-1476

The purpose of the following guidelines is to state the minimum and not the maximum standards of educational fair use under § 107 of H.R. 2233. The parties that the conditions determining the extent of permissible copying for educational purposes may change in the future; that certain types of copying permitted under these guidelines may not be permissible in the future; and conversely that in the future other types of copying not permitted under these guidelines may be permissible under revised guidelines.

Moreover, the following statement of guidelines is not intended to limit the types of copying permitted under the standards of fair use under judicial decision and which are state in § 107 of the Copyright Revision Bill. There may be instances in which coping which does not fall within the guidelines stated below may nonetheless be permitted under the criteria of fair use.

#### **\* Guidelines \***

##### **I. SINGLE COPYING FOR TEACHERS:**

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or 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;
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.

##### **II. MULTIPLE COPIES FOR CLASSROOM USE:**

Multiple copies (not to exceed more than one copy per pupil in a course) may be made by or for a teacher giving a course for classroom use or discussion; provided that:

- A. The copying meets the tests of brevity and spontaneity as defined below; and
- B. Meets the cumulative effect test as defined below, and
- C. Each copy includes a notice of copyright.

## **DEFINITIONS**

### Brevity:

- i. Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or (b) from a longer poem, an excerpt of not more than 250 words.
- ii. Prose: (a) Either a complete article, story or essay of less than 2,500 words or (b) an excerpt from any prose work provided the excerpt is not more than 1,000 words or 10% of the work, whichever is less, and a minimum of 500 words.  
(Each of the numerical limits stated in “i” and “ii” above may be expanded to permit the completion of an unfinished line of a poem or an unfinished prose paragraph.)
- iii. Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
- iv. "Special" works: Certain works in poetry, prose or "poetic prose" which often combine language with illustrations and are intended for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph “ii” above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and not more than 10% of the words found in the text may be reproduced.

### Spontaneity:

- i. The copying is at the instance and inspiration of the individual teacher, and
- ii. The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

### Cumulative Effect:

- i. The copying of the material is for only one course in the school in which the copies are made.
- ii. Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
- iii. There shall not be more than nine instances of such multiple copying for one course during one class term.  
  
(The limitations stated in “i” and “ii” above shall not apply to current news periodicals, newspapers and current news sections of other periodicals.)

### **III. PROHIBITIONS AS TO I AND II ABOVE:**

Notwithstanding any of the above, the following shall be prohibited:

- A. Copying shall not be used to create, replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts there from are accumulated or are reproduced and used separately.
- B. There shall be no copying of or from works intended to be "consumable" in the course of study or teaching. These include workbooks, exercises, standardized tests, test booklets and answer sheets and like consumable material.
- C. Copying shall not:
  - a. substitute for the purchase of books, publisher's reprints or periodicals;
  - b. be directed by higher authority,
  - c. be repeated with respect to the same item by the same teacher from term to term.
- D. No charge shall be made to the student beyond the actual cost of the photocopying.

## V. Audio Visual

### **Public Performance:**

Public Performance Rights are permission to broadcast, view, televise, etc. However, the law does provide a “fair use” exemption for educators and educational institutions if ALL the following criteria are met:

### **Fair Use:**

The audiovisual section of the law does provide a “fair use” exemption for schools. These requirements MUST be met before a performance is considered acceptable under this educational exemption to the public performance restriction:

1. The performance must be presented by instructors or pupils;
2. The performance must occur in the course of face-to-face teaching activities;
3. The performance must take place in a classroom or similar place for instruction (including the library);
4. The performance must be a legally acquired (or legally copied) copy of the work (The presenter is protected from liability for illegal copies IF the presenter is unaware that the copies were not legally acquired or made); Instructor decides what will be used;
5. There isn't enough time to get permission.

### **Examples of Acceptable Performance:**

- A teacher shows a library owned video to his sixth grade science class to demonstrate the effects of water pollution as a part of a lesson on ecology. This use is protected under the educational exemption because it meets all of above criteria.
- An English teacher's classes have been studying *Romeo and Juliet*. To conclude the unit, the teacher shows a library owned tape of the Franco Zeffirelli version of the play in class. The video must be shown at the same time you are studying the play, not six weeks later or before. This is protected under the educational exemption.
- An elementary school music teacher plays a recording of a performance of John Philip Sousa's *Stars and Stripes Forever* as part of a unit on patriotic music for third graders. The recording is accompanied by the music text.

### **Examples of Unacceptable Performance:**

- The PTA shows a library owned copy of *The Little Mermaid* to the children of members in a classroom while the officers have a meeting in the library. The copy is legally acquired, the performance takes place in a classroom, and the performance may be presented by a teacher or pupil, but this performance is not part of face-to-face teaching activities. This would be considered entertainment or reward, and as such is not permitted without public performance rights.
- Renting a copy of a video would have no effect on the legality of the performance, and the school may be liable for providing equipment or an infringing performance. The same prohibition would apply to movies or recordings used to reward classes for good grades, commendable behavior, or perfect attendance.

- On the last day of the semester, the American history teacher decides to play his class a record on the Cuban missile crisis so he can calculate his grades while students are occupied. The class is not currently studying that portion of the curriculum. This use is not acceptable because the face-to-face teaching requirement is not met. It makes no difference that the topic will eventually be covered in the curriculum. Public performance rights apply.

Simpson, Carol Mann. *Copyright for Schools: A Practical Guide*, 5th ed. Santa Barbara, CA, Linworth Publishing, 2007.

**District Licensed  
Safari Montage**

Safari Montage digital videos are designed to be used in an educational setting with performance rights paid as a yearly subscription fee. Teachers are encouraged to use this resource first and foremost in their selection of curriculum audio visual support. Note: acquiring new content for Safari Montage will be considered yearly and based on available titles plus budget allowances.

## VI. Educational Multimedia

### Permitted Uses

#### **STUDENTS:**

- Students may use portions of legally acquired copyrighted materials in their own educational multimedia projects for a specific course.
- Students may retain projects in a portfolio for personal use such as job and graduate school interviews
- Students may perform and display projects in the course for which it was created.

#### **TEACHERS:**

- Teachers may use portions of legally acquired copyrighted materials when producing their own educational multimedia projects for their own teaching tools in support of curriculum-based instructional activities in the following situations:
  - Used in face-to-face instruction.
  - Assigned to students for directed self-study.
  - Used in distance education courses or courses delivered via ANGEL/Blackboard.
  - Used in peer conferences.
  - Used in professional portfolios.

### **Limitations Time, Portion, Copying and Distribution**

<b>TIME</b>	The work may be used for up to 2 years after first instructional use	
<b>PORTION</b>	Motion media Text Music Illustrations/ Photos Numerical Data sets	10% or 3 minutes, whichever is less 10% or 1000 words, whichever is less 10% but no more than 30 seconds No more than 5 by one artist 10% or 2500 fields or ten entries
<b>COPYING &amp; DISTRIBUTION</b>		2 copies may be made, including the original

Teachers and students must seek permissions (licenses) before using copyrighted works in educational multimedia projects in the following instances: (See Copyright Permissions below.)

- Non-educational or commercial use.
- Use beyond the limitations of time, portion, copying and distribution.
- Distribution beyond the limitations listed above.

(Non-legislative report was adopted by the Subcommittee on Courts and Intellectual Property, Committee on the Judiciary, US House of Representatives, on September 27, 1996.)

### **Copyright Permissions**

In accordance with District Policy 4156.1, all requests for copyright permissions should be directed to the District Library/Media Department Head. This department shall contact publishers and be the repository for any documents noting permissions granted.

## **VII. Guidelines for Libraries**

### **A. General Guidelines**

#### **Length of Copyright**

The 1976 Copyright Act, Section 202 and Copyright Term Extension Act (1998), determined the duration of copyright generally to be 70 years after the death of the author unless another entity purchased or inherited the rights.

#### **Loaning Materials**

There is nothing in the Copyright Law that prohibits library materials, including books, videotapes, periodicals, computer programs, etc. from circulating.

#### **Motion Picture Licensing Corporation**

The Motion Picture Licensing Corporation Umbrella License allows the business community, profit or non-profit institutions and any other organization or governmental body, unlimited exhibitions at a designated site within the facility of all home videocassette titles of MPLC-affiliated studios.

#### **Online Databases**

A search completed for a student must become the property of the user. The search strategy may be retained for future use. Always check the documentation for each online database for special restrictions on usage.

#### **Replacing a lost, stolen, or damaged item**

A copy of a lost, stolen, or damaged item may be made if the library has made reasonable effort to determine that an unused replacement cannot be obtained at a fair price. 17 U.S.C. § 108 (c)

#### **Public Domain**

Copies made of materials on which the copyright has expired are considered part of the public domain. Materials where the author never claimed copyright (dedicated to the public) or materials produced by the federal government (17 U.S.C. § 105) are also considered public domain materials.

#### **Out of Print Materials**

If you wish to reproduce materials that are out of print, you must make every attempt to find a current owner of the material by contacting publishers, authors, or searching an online bibliographic database. If you cannot find a current owner after a reasonable attempt, you may copy the material.

#### **Off-Air Taping**

Off-air taping of television programs for educational purposes is permissible within certain guidelines. The key to remember is 10-45. A broadcast program may be recorded and used by educators without charge for a period not to exceed the first 45 consecutive days after the date of the recording. Off-air recordings may then be used once by teachers in relevant teaching activities, and repeated once when instructional reinforcement is necessary during the first 10 days in the 45-day retention period. Off-air recordings may only be made at the request of

teachers and not in anticipation of requests. Off-air copies may not be altered from their original content of combined or merged into other compilations.

### **For Home Use Only**

17 U.S.C. § 110(1) sets forth circumstances under which performances in school are not infringements of copyright:

“Performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made.”

This limits viewing to teaching situations and does not permit viewing chiefly for entertainment, recreation, rewards, or cultural events held at a school.

In summary, the following rules must be met for videos to be shown legally:

- They must be relevant to the curriculum being taught.
- They must be used in face-to-face instruction.
- No admission can be charged.
- Showing the video must NOT be for a reward or as a time filler at vacation or other “crunch” times.

It is advisable for teachers to include the titles of any videos used in their classroom in their lesson plans prior to usage. This includes Information Center videos, off-air videos, rented videos, ITV videos, etc.

Libraries may loan video recordings as long as the borrower is apprised of copyright restrictions. U.S.C. §109 (a).

Under no circumstances, can video recordings be duplicated without permission of the copyright holder.

## IMPORTANT REMINDERS!

- **Caution in downloading material from the Internet**  
Access to works on the Internet does not automatically mean that these can be reproduced and reused without permission or royalty payment.
- **Attribution and acknowledgment**  
Credit the sources and display the copyright notice © for all works.
- **Notice of use restrictions**  
Certain materials are included under the fair use exemption of the U. S. Copyright Law and have been prepared according to the educational multimedia fair use guidelines and are restricted from further use.
- **Future uses beyond fair use**  
If there is a possibility that future use might result in a broader distribution, obtain permission during the development stages rather than after completion of the project.
- **Integrity of copyrighted works: Alterations**  
Alterations in the works may be made to support specific educational objectives. Note that alterations have been made.
- **Reproduction or recompilation of copyrighted computer programs**  
Reproduction of computer programs, underlying code or control mechanisms does not fall under these guidelines.
- **Licenses and contracts**  
Fair use and guidelines shall not preempt or supersede licenses and contractual obligations.
- **Peer to Peer**  
Network sharing of audio or video files is prohibited by students.
- **First Sale**  
This doctrine allows library to transfer ownership of copyrighted work without obtaining permission.

American Library Association. *Video and Copyright*. Chicago, IL, 2009.

Copyright Office. Circular R21: Reproduction of copyrighted works by educators and librarians. Washington, DC. Library of Congress, 1992.

## **B. Guidelines for Libraries: Photocopying**

### *17 U.S.C. § 108*

It is not an infringement of copyright for a library or any of its employees to reproduce no more than one copy made from the collection of the library of an article from a periodical issue, chapter from a book, section from an encyclopedia or other reference tool, etc. under the following circumstances:

- The copy must become the property of the user and the library or its employees has had no notice that the copy would be used for any purpose other than private study, scholarship or research;
- The library displays a warning of copyright; and
- The copy includes a notice of copyright.

Additional Guidelines:

- The library or its employees shall not systematically reproduce or distribute multiple copies of copyrighted materials without permission;
- If more copies are needed, the library should seek permission to copy.
- Copyright law does not prohibit Interlibrary Loan activity or photocopying for educational purposes.
- If students make their own copies, the library is not responsible for infringement of copyright if the copy machine displays a notice that the making of a copy may be subject to the copyright law (17 U.S.C. § 108(f)).

# Suggested Warnings

Sign to be displayed where photocopies are requested or made.

## Warning Concerning Copyright Restrictions

The copyright law of the United State (Title 17, US 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 reproduction is not to be "used for any purpose other than private study, scholarship, or research". If a user makes a request for, or later 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.

Notice for Unsupervised Reproducing Equipment Photocopiers, computers, fax machines, audio duplication equipment.

### Notice

The copyright law of the United States 17 U.S.C. § 101 et seq. governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.

**(17 U.S.C. § 108 (f)(1))**

Notice to be placed on a copy or reproduction of a work, article from a periodical, chapter from a book, or electronic file.

### Notice

This material may be protected by copyright law (Title 17 U. S. Code)  
© (Publisher's name) (date).

**(17 U.S.C. § 108 (a)(3))**

## **C. Guidelines for Libraries: Off-Air Recording**

*H. R. 97-495 1979 (House Report)*

A committee consisting of representatives from educational organizations, copyright proprietors, and creative guilds and unions established the following guidelines for "*fair use*" in the recording, retention, and use of television programs for educational purposes. These guidelines apply only to recording by non-profit educational institutions.

- Recording may be made only at the request of a teacher.
- Copies may be retained no more than 45 days, and then must be erased.
- Copies may be shown once during the first 10 school days.
- A second showing is permissible during the initial 10 day period but only for necessary instructional reinforcement.
- After initial 10 days, copies may be used only for evaluation purposes by the District to determine whether to include in the curriculum.
- Original form of the program may not be altered.
- Copy must contain a notice of copyright.

(House of Representatives Report. H.R. 97-495, 1979)

## **VIII. Web Pages and Publishing**

### **WebPages Copyright Permissions**

In accordance with District Policy 7305 and 7305.1 – Web Publishing, individuals developing web pages are directed to the District Technology Users Manual for appropriate guidelines.

## IX. Music and Digital Recording

### Music and Copyright

Musical compositions and recordings are subject to copyright law. In addition, they are subject to a host of technical and specialized rules under American copyright statutes. A musical work may involve three copyrights: one for the music itself, a second for the recording, and a third on the arrangement. Permission must be secured for performance from licensing agencies to cover all aspects of musical performances. Playing audio files or music in public performances such as graduations, dances and athletic events requires licenses. Public performance is clearly defined in the law: “a place open to the public or at any place where a substantial number of persons outside of a normal circle of family or its social acquaintances is gathered.” Any performance of a copyright work under this definition requires a license. The only exception provided by the law is called “fair use” exemption for performance of a work in schools. All four of the following requirements must be met before the performance is considered an educational exempt performance:

1. The performance must be presented by instructor or pupils,
2. The performance must occur in the course of face-to-face teaching,
3. The performance must take place in a classroom or similar place of instruction in a non-profit educational institution,
4. The performance must be a legally acquired copy of the work.

NOTE: Dances and talent shows are **NOT** considered face-to-face teaching, although most occur within the school building. They are public performances and licensing or permission must occur to be compliant with copyright rules.

### Face-to-Face Exemption

To qualify for this exemption, the performance must be initiated by instructors or pupils and must occur within the context of the "face-to-face teaching activities" of a nonprofit educational institution, in a classroom or similar place devoted to instruction (e.g., a library, studio or workshop). This exemption is limited, and does **not** apply to:

1. Performances by actors, singers, or instrumentalists brought in from outside the school to put on a program
2. Performances that are given for recreation or entertainment
3. Performances in profit-making institutions such as for-profit dance or music studios
4. Performances in an auditorium or stadium during a school assembly, graduation ceremony, class play, or sporting event, where the audience is not confined to the members of a particular class (Only performances "in a classroom or similar place devoted to instruction" fit this provision; performances at shopping malls, etc. are not covered)

## **Copying Printed Sheet Music**

Examples of acceptable copying:

1. Emergency copying when purchased copies have not arrived in time for a performance. Emergency copies must be replaced with the purchased copies.
2. 10% of a work and only one copy per student.
3. Single copy of performance by student but it may only be used for evaluation or rehearsal.
4. School purchased music may be edited or simplified as long as the basic work remains in character.
5. Single copy of a sound recording for testing or evaluation.

Examples of unacceptable copying:

1. Copying of consumable materials such as workbooks, tests or exercises.
2. Copying music for performance, except for sole purpose of evaluation.
3. Copying to create an anthology or collection of music.
4. Copying without including the copyright notice that appears on printed copy.
5. Charging students for illegally copied music.

## **Students as Copyright Holders / Ethical Users**

Publishers are not the only ones who own copyrights. Students own the rights to their own works. Public use of student work beyond the classroom or school will require permission of the parents (most students are minors).

## **Soundzabound**

Millard Public Schools has purchased royalty free music for use by teachers and students. Soundzabound is a web based source of thousands of songs in varying degrees of length that can be downloaded and used by both students and teachers.

The Soundzabound site can be found at:

<http://www.soundzabound.com>

User id varies by building. (Ask your teacher librarian for your school's user id)

The password for all MPS schools is "millard".

## **X. Technology and Software**

The following is taken from the Technology User's Manual, 2009, Technology Division, Millard Public Schools.

### **Use of Personal Software on District Technology**

Only software purchased by the District or building may be legally installed on District owned technology. Copyright law and software licenses are very specific about ownership and the conditions under which software can be used. In addition, the District could be subject to a software audit that would require the District to prove ownership of all software and operating systems residing on the more that 10,000+ systems District wide. Users loading software that has not been approved and/or purchased by the District may be subject to disciplinary action. This includes personal software, freeware, and/or shareware.

### **Use of District Technology and Software**

District computers, associated technologies, and related software are provided to support student learning and classroom/building management. Use of District technology will conform to the Policies and Rules, and Standards and Procedures set forth by the District. District users may not use, convert, or modify district equipment for personal or business use. This includes the use of desktop/laptop computers for file sharing, as a web server, database server, or other functions for which the equipment was not originally intended, unless explicitly authorized by the Executive Director of Technology.

### **Policies and Rules Applicable to Technology**

7100	Use of District Computers, Software, and Data Files	<a href="http://bit.ly/gpPELo">http://bit.ly/gpPELo</a>
7100.1	Compliance with Applicable Law	<a href="http://bit.ly/gEMrYc">http://bit.ly/gEMrYc</a>
7305	Web Publishing	<a href="http://bit.ly/gOyOz7">http://bit.ly/gOyOz7</a>
7305.1	Web Publishing	<a href="http://bit.ly/fJ71sX">http://bit.ly/fJ71sX</a>

# XI. Copyright and Fair Use Guidelines for Teachers

This chart was designed to inform teachers of what they may do under the law. Feel free to make copies for teachers in your school or district, or download a PDF version at [www.techlearning.com](http://www.techlearning.com). More detailed information about fair use guidelines and copyright resources is available at [www.halldavidson.net](http://www.halldavidson.net). (Technology & Learning logo removed for publication purposes.)

Medium	Specifics	What you can do	The Fine Print
<b>Printed Material (short)</b>	<ul style="list-style-type: none"> <li>Poem less than 250 words; 250-word excerpt of poem greater than 250 words</li> <li>Articles, stories, or essays less than 2,500 words</li> <li>Excerpt from a longer work (10 % of work or 1,000 words, whichever is less)</li> <li>One chart, picture, diagram, or cartoon per book or per periodical issue</li> <li>Two pages (maximum) from an illustrated work less than 2,500 words, e.g., a children's book</li> </ul>	<ul style="list-style-type: none"> <li>Teachers may make multiple copies for classroom use, and incorporate into multimedia for teaching classes.</li> <li>Students may incorporate text into multimedia projects.</li> </ul>	<ul style="list-style-type: none"> <li>Copies may be made only from legally acquired originals.</li> <li>Only one copy allowed per student.</li> <li>Teachers may make copies in nine instances per class per term.</li> <li>Usage must be "at the instance and inspiration of a single teacher," i.e., not a directive from the district.</li> <li>Don't create anthologies.</li> <li>"Consumables," such as workbooks, may not be copied.</li> </ul>
<b>Printed Material (archives)</b>	<ul style="list-style-type: none"> <li>An entire work</li> <li>Portions of a work</li> <li>A work in which the existing format has become obsolete, e.g., a document stored on a Wang computer</li> </ul>	<ul style="list-style-type: none"> <li>A librarian may make up to three copies "solely for the purpose of replacement of a copy that is damaged, deteriorating, lost, or stolen."</li> </ul>	<ul style="list-style-type: none"> <li>Copies must contain copyright information.</li> <li>Archiving rights are designed to allow libraries to share with other libraries one-of-a-kind and out-of-print books.</li> </ul>
<b>Illustrations and Photographs</b>	<ul style="list-style-type: none"> <li>Photograph</li> <li>Illustration</li> <li>Collections of photographs</li> <li>Collections of illustrations</li> </ul>	<ul style="list-style-type: none"> <li>Single works may be used in their entirety, but no more than five images by a single artist or photographer may be used.</li> <li>From a collection, not more than 15 images or 10 percent (whichever is less) may be used.</li> </ul>	<ul style="list-style-type: none"> <li>Although older illustrations may be in the public domain and don't need permission to be used, sometimes they're part of a copyright collection. Copyright ownership information is available at <a href="http://www.loc.gov">www.loc.gov</a> or <a href="http://www.mpa.org">www.mpa.org</a>.</li> </ul>
<b>Video (for viewing)</b>	<ul style="list-style-type: none"> <li>Videotapes (purchased)</li> <li>Videotapes (rented)</li> <li>DVDs</li> <li>Laserdiscs</li> </ul>	<ul style="list-style-type: none"> <li>Teachers may use these materials in the classroom.</li> <li>Copies may be made for archival purposes or to replace lost, damaged, or stolen copies.</li> </ul>	<ul style="list-style-type: none"> <li>The material must be legitimately acquired.</li> <li>Material must be used in a classroom or nonprofit environment "dedicated to face-to-face instruction."</li> <li>Use should be instructional, not for entertainment or reward.</li> <li>Copying OK only if replacements are unavailable at a fair price or in a viable format.</li> </ul>
<b>Music (for integration into multimedia or video projects)</b>	<ul style="list-style-type: none"> <li>Records</li> <li>Cassette tapes</li> <li>CDs</li> <li>Audio clips on the Web</li> </ul>	<ul style="list-style-type: none"> <li>Up to 10 percent of a copyright musical composition may be reproduced, performed, and displayed as part of a multimedia program produced by an educator or students.</li> </ul>	<ul style="list-style-type: none"> <li>A maximum of 30 seconds per musical composition may be used.</li> <li>Multimedia program must have an educational purpose.</li> </ul>
<b>Computer Software</b>	<ul style="list-style-type: none"> <li>Software (purchased)</li> <li>Software (licensed)</li> </ul>	<ul style="list-style-type: none"> <li>Library may lend software to patrons.</li> <li>Software may be installed on multiple machines, and distributed to users via a network.</li> <li>Software may be installed at home and at school.</li> <li>Libraries may make copies for archival use or to replace lost, damaged, or stolen copies if software is unavailable at a fair price or in a viable format.</li> </ul>	<ul style="list-style-type: none"> <li>Only one machine at a time may use the program.</li> <li>The number of simultaneous users must not exceed the number of licenses; and the number of machines being used must never exceed the number licensed. A network license may be required for multiple users.</li> <li>Take aggressive action to monitor that copying is not taking place (unless for archival purposes).</li> </ul>
<b>Internet</b>	<ul style="list-style-type: none"> <li>Internet connections</li> <li>World Wide Web</li> </ul>	<ul style="list-style-type: none"> <li>Images may be downloaded for student projects and teacher lessons.</li> <li>Sound files and video may be downloaded for use in multimedia projects (see portion restrictions above).</li> </ul>	<ul style="list-style-type: none"> <li>Resources from the Web may not be reposted onto the Internet without permission. However, links to legitimate resources can be posted.</li> <li>Any resources you download must have been legitimately acquired by the Website</li> </ul>
<b>Television</b>	<ul style="list-style-type: none"> <li>Broadcast (e.g., ABC, NBC, CBS, UPN, PBS, and local stations)</li> <li>Cable (e.g., CNN, MTV, HBO)</li> <li>Videotapes made of broadcast and cable TV programs</li> </ul>	<ul style="list-style-type: none"> <li>Broadcasts or tapes made from broadcast may be used for instruction.</li> <li>Cable channel programs may be used with permission. Many programs may be retained by teachers for years—see <i>Cable in the Classroom</i> (<a href="http://www.ciconline.org">www.ciconline.org</a>) for details.</li> </ul>	<ul style="list-style-type: none"> <li>Schools are allowed to retain broadcast tapes for a minimum of 10 school days. (Enlightened rights holders, such as PBS' <i>Reading Rainbow</i>, allow for much more.)</li> <li>Cable programs are technically not covered by the same guidelines as broadcast television.</li> </ul>
<p><b>Sources:</b> United States Copyright Office <i>Circular 21</i>; Sections 107, 108, and 110 of the Copyright Act (1976) and subsequent amendments, including the Digital Millennium Copyright Act; <i>Fair Use Guidelines for Educational Multimedia</i>; cable systems (and their associations); and <i>Copyright Policy and Guidelines for California's School Districts</i>, California Department of Education. <b>Note:</b> Representatives of the institutions and associations who helped to draw up many of the above guidelines wrote a letter to Congress dated March 19, 1976, stating: "There may be instances in which copying that does not fall within the guidelines stated [above] may nonetheless be permitted under the criterion of fair use."</p>			

## **XII. Frequently Asked Questions / Suggestions**

### **Video Questions and Answers**

**Q: May I show a video that I have rented or purchased in my classroom at school?**

A: The simple answer is “no”. A public performance license must be obtained to use the video. Videos cannot be used at school as a reward or entertainment. In addition to the legal question above, the video must be reviewed and approved as part of curriculum adoption process. This ensures the resource is available to all schools/teachers. Supplanting the written curriculum is not permissible.

**Q: What about videos that a student brings from home?**

A: The same rules apply.

**Q: What about YouTube? Can I use content from this website in my classroom?**

A: This answer has two distinct parts. First, remember to treat video content on YouTube as you would any other video you use with students---it must be previewed and also age appropriate. Second, whether the content is commercial in nature or not, the clips are all protected via copyright. You must follow the time and quantity limit found in the Copyright Guidelines. YouTube has procedures in place to find copyrighted or commercially produced material and delete it from their site. Of course, it is quite a challenge to keep up with all posts, but the YouTube policy states that termination of an account and possible legal action will occur when infringement is reported.

More importantly, teachers should use TeacherTube instead of YouTube. This site is educationally focused and a safe site for teachers and students.

**Q: Why is there is a price difference in a consumer (personal) video than a video listed in an educational catalog?**

A: Some companies set different price points based on home use versus educational use. The educational video may come with support materials and additional footage not available on the home version. Plus, the increased price also covers additional fees for public performance.

**Q: We want to rent an entertainment video from a rental store or have parents bring in entertainment video they personally own to use for family nights at our school. There would be no admission charged. Would this be permissible?**

A: No. The use of entertainment videos for family night, with or without charging, requires a public performance license. The video store is not in the business of granting or selling such a license. Movie Licensing USA represents a large numbers of companies such as Disney, Universal Studios, etc. Purchasing a license or paying an annual fee would cover the school’s use of entertainment videos. However, it is not permissible to use instructional time to show a full length motion picture.

## **May I Show A Commercial Video in My Classroom?**

Yes, but only in the following specific circumstances:

- A. The use of the video must follow Board of Education Policy (4156) regarding the US Copyright Law (Fair Use Guidelines) and meet all of the following conditions:
- The video must be used by a teacher in a face-to-face teaching situation in a classroom setting;
  - The use of the video must meet clear instructional objectives;
  - The use of the video must not be for purposes of reward, entertainment or motivation; and
  - The video must be legally acquired. It can be rented, purchased or borrowed but not taped from commercial cable or satellite without permission of the channel. It can be taped for limited use (10 days) from broadcast channels (e.g., KETV, KMTV, KPTM, WOWT, Nebraska Public TV, PBS, CW) that are not owned by cable.
- B. MPS Policies, Rules, and Administrative Procedures regarding selection criteria and instructional considerations for the acquisition and use of instructional resources applies to the use of commercial video. These questions should be answered:
1. Has the teacher determined by preview if the video provides accurate, educationally sound information? A fictionalized commercial depiction of a person, place or thing is first entertainment and does not necessarily have the authenticity of an educational video or text source.
  2. Does the instructional objective require the viewing of an entire, full-length film on video? Showing a brief clip (not more than 10%) follows copyright “fair use” guidelines and doesn’t use valuable class time for entertainment, reward or motivation purposes.
  3. Is the video appropriate for the audience? A movie industry rating system helps guide parents and prevents students by age group from viewing “PG,” “PG-13” or “R” movies which contain more mature or adult content, action and/or language. If students are not at a legal age to see a film in a local movie theater, the video version should not be shown at school without careful, compelling consideration; explicit written parental permission and school administration approval is required.

Questions? Contact the District Library/Media Services Department Head, 715-1227.

## Print Questions and Answers

**Q: May I copy material from books and other sources no longer a part of the MPS curriculum adoption? A specific example is a worksheet that accompanied the textbook series that was used in previous curriculum adoption.**

A: If a textbook is purchased as part of an adoption and later replaced with a different series, the district requires the teacher to only use the district approved written curriculum. Again the supplanting of written curriculum is not allowed. When it comes to materials designed to be consumable, such as worksheets or masters, copyright law prohibits reproducing such works. (NOTE: As part of a curriculum adoption, negotiations often result in granting district permission to reproduce such materials, but only for the life of the adoption.)

**Q: May I copy parts of a textbook no longer in print to use with my students?**

A: The fact that the book is out of print doesn't cancel the fact that it is still protected by copyright. Educators may only use the portion limit (10%) or ask Educational Services to seek written permission to use the desired quantity.

**Q: I want to transfer all my books on tape to CD format. Can I legally do that?**

A: It is not permissible to convert one format to another or to make copies of materials purchased without prior permission of copyright holder.

**Q: For ease of listening, I want to transfer my books on tape/CD to my classroom iPod. Can I legally do that?**

A: There are two issues involved. First, a conversion of one format to another requires prior permission. Second, if the materials were purchased by the school district under a licensing agreement, then that license is the binding contract. It would not be permissible to load the CD onto an iPod; neither would it be permissible to load multiple audio files unless they were purchased with such rights.

## Special Education Questions and Answers

**Q: Can I adapt copyrighted materials to use with my special education students?**

A: Yes. The 1997 Chafee Amendment to the Copyright Act permits certain nonprofit and governmental agencies (namely, those whose primary mission is providing specialized training, education or adaptive reading services for persons who are blind or disabled from reading by a physical disability) to create copies of non-dramatic literary works in specialized formats exclusively for use by such blind and disabled persons, provided certain conditions are met.

**Chafee Amendment Conditions:**

Include that copies shall:

1. Not be reproduced or distributed in a format other than a specialized format exclusively for use by blind or other persons with disabilities;
2. Bear a notice that any further reproduction or distribution in a format other than a specialized format is an infringement of copyright; and
3. Include a copyright notice identifying the copyright owner and date of original publication.

**Q: Can I use a movie to calm my student?**

A: Yes, as long as it is documented in the student's IEP and all other criteria for fair use are met. If specific titles are not identified, teachers may use media provided by the student's parent or owned by the District.

**Q: If an individual student's IEP includes the use of a specific music or video to calm the student how should this be handled?**

A: This is permissible as long as it is documented in the student's IEP and all other criteria for fair use are met. It must be previewed and also age/developmentally appropriate.

**Q: Can the teacher of a class of students with disabilities, i.e., BD or ACP classes, show a video/DVD as a reward for reaching a class goal or good behavior?**

A: No. As in general education classes, videos/DVDs cannot be used at school or shown in ACP, BD or other classrooms as a reward or entertainment. See the first Q & A in the Video Questions and Answers section.

**Q: What about using a CD or DVD as a reward for an individual student if it is written into his/her IEP and Behavior Intervention Plan.**

A: This is permissible as long as it is documented in the student's IEP and all other criteria for fair use are met. It must be previewed and also age/developmentally appropriate. If a specific title is not identified, teachers may use media provided by the student's parent or owned by the District.

## Music Questions and Answers

**Q: Can a music teacher make a CD of students performing music?**

A: When a school purchases sheet music or music curriculum, the right to perform the music in an instructional setting is also purchased. Teachers are allowed to record these performances to assess the student's performance. Often times, the teacher librarian is asked to record the performance and then copy and share with parents. This could become a problem because the school then loses control over what happens to that copy once it leaves school. The copies could be edited and/or posted on the Internet, which would possibly put the school at risk.

**Q: Can I use popular music from CDs that have been purchased or music that has been downloaded from the Internet? The music would be used in PowerPoint presentations of video productions.**

A: Basically, education has very limited rights to use music without prior permission... especially large portions of a song or performance. In terms of music downloaded from the Internet, in almost all cases, the company (iTunes or similar site) has the user enter into a user agreement.

Millard Public Schools has purchased royalty free music for use by teachers and students. Soundzabound is a web based source of thousands of songs in varying degrees of length that can be downloaded and used by both students and teachers.

The Soundzabound site can be found at:  
<http://www.soundzabound.com>

User id varies by building. (Ask your teacher librarian for your school's user id)  
The password for all MPS schools is "millard".

## **XIII. Legal References**

### **Federal References**

Circular 92. Copyright Law of the United States

<http://www.copyright.gov/title17/circ92.pdf>

Related Laws Contained in the U.S. Copyright Act (17 U.S.C. § 101 et. seq.)

### **Nebraska State References**

Neb. Rev. Stat. § 28-1341 et. seq.

<http://nebraskalegislature.gov/laws/statutes.php?statute=28-1341>

Neb. Rev. Stat. § 79-2,104

<http://nebraskalegislature.gov/laws/statutes.php?statute=79-2104>

Neb. Rev. Stat. § 84-712 et. seq.

<http://nebraskalegislature.gov/laws/statutes.php?statute=84-712>

## **Appendix A**

**Category: Human Resources**

**Policy: Code of Ethics**

**4155**

The Board recognizes, endorses and adopts the Standards of Ethical and Professional Performance as established by the Nebraska Department of Education.

Legal Reference: Neb. Rev. Stat. §§ 79-859, 79-866; 92 NAC 27

Policy Adopted: October 7, 1974 Millard Public Schools

Revised: August 3, 1992, June 2, 2003; September 7, 2010 Omaha, NE

Reaffirmed: January 5, 1998

**Category: Human Resources**

**Policy: Code of Ethics**

**4155.1**

Standards of Ethical and Professional Performance

The District Board hereby endorses and communicates to its staff the generally accepted minimal standards of professional practices adopted by the Nebraska State Board of Education.

**I. Preamble**

The educator shall believe in the worth and dignity of human beings. Recognizing the supreme importance of the pursuit of truth, the devotion to excellence and the nurture of democratic citizenship, the educator shall regard as essential to these goals the protection of the freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator shall accept the responsibility to practice the profession to these ethical standards.

The educator shall recognize the magnitude of the responsibility he or she has accepted in choosing a career in education, and engages, individually and collectively with other educators, to judge his or her colleagues, and to be judged by them, in accordance with the provisions of this code of ethics.

The standards listed in this section are held to be generally accepted minimal standards for public school certificate holders in Nebraska with respect to ethical and professional conduct and are, therefore, declared to be the criteria of ethical and professional performance adopted pursuant to the provisions of Section 79- 866 Neb. Rev. Stat. for holders of public school certificates.

**II. Principle I - Commitment as a Professional Educator:**

Fundamental to the pursuit of high educational standards is the maintenance of a profession possessed of individuals with high skills, intellect, integrity, wisdom, and compassion. The educator shall exhibit good moral character, maintain high standards of performance and promote equality of opportunity.

In fulfillment of the educator's contractual and professional responsibilities, the educator:

- A. Shall not interfere with the exercise of political and citizenship rights and responsibilities of students, colleagues, parents, school patrons, or school board members.
- B. Shall not discriminate on the basis of race, color, religion, national origin, gender, marital status, disability, or age.
- C. Shall not use coercive means, or promise or provide special treatment to students, colleagues, school patrons, or school board members in order to influence professional decisions.

- D. Shall not make any fraudulent statement or fail to disclose a material fact for which the educator is responsible.
- E. Shall not exploit professional relationships with students, colleagues, parents, school patrons, or school board members for personal gain or private advantage.
- F. Shall not sexually harass students, parents or school patrons, employees, or board members.
- G. Shall not have had revoked for cause a teaching certificate, administrative certificate, or any certificate enabling a person to engage in any of the activities for which a special services certificate is issued in Nebraska.
- H. Shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of professional duties.
- I. Shall report to the Commissioner and the District Superintendent any known violation of Principle I, letter G; Principle III, letter E; or Principle IV, letter B.
- J. Shall seek no reprisal against any individual who has reported a violation of this code of ethics.

**III. Principle II - Commitment to the Student:**

Mindful that a profession exists for the purpose of serving the best interests of the client, the educator shall practice the profession with genuine interest, concern, and consideration for the student. The educator shall work to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfillment of the obligation to the student, the educator:

- A. Shall permit the student to pursue reasonable independent scholastic effort, and shall permit the student access to varying points of view.
- B. Shall not deliberately suppress or distort subject matter for which the educator is responsible.
- C. Shall make reasonable effort to protect the student from conditions which interfere with the learning process or are harmful to health or safety.
- D. Shall conduct professional educational activities in accordance with sound educational practices that are in the best interest of the student.
- E. Shall keep in confidence personally identifiable information that has been obtained in the course of professional service, unless disclosure serves professional purposes, or is required by law.

- F. Shall not tutor for remuneration students assigned to his or her classes unless approved by the Millard Board of Education.
- G. Shall not discipline students using corporal punishment.

**IV. Principle III - Commitment to the Public:**

The magnitude of the responsibility inherent in the education process requires dedication to the principles of our democratic heritage. The educator bears particular responsibility for instilling an understanding of the confidence in the rule of law, a respect for individual freedom, and a responsibility to promote respect by the public for the integrity of the profession.

In fulfillment of the obligation to the public, the educator:

- A. Shall not misrepresent an institution with which the educator is affiliated, and shall take added precautions to distinguish between the educator's personal and institutional views.
- B. Shall not use institutional privileges for private gain or to promote political candidates, political issues, or partisan political activities.
- C. Shall neither offer nor accept gifts or favors that will impair professional judgment.
- D. Shall support the principle of due process and protect the political, citizenship, and natural rights of all individuals.
- E. Shall not commit any act of moral turpitude, nor commit any felony under the laws of the United States or any state or territory, and shall not have a misdemeanor conviction involving abuse, neglect, or sexual misconduct as defined in Sections 003.11 through 003.14 of 92 NAC 21 (an offense under the laws of any jurisdiction, which, if committed in Nebraska, would constitute one of the following misdemeanors (with the applicable sections for the Revised Statutes of Nebraska in parenthesis):
  - 1. Assault (third degree) (28-310)
  - 2. Child Enticement (28-311)
  - 3. Stalking (28-311.03)
  - 4. Hazing (28-311.06)
  - 5. Unlawful Intrusion (28-311.08)
  - 6. Violating a Harassment Protection Order (28-311.09)
  - 7. False Imprisonment (28-315)
  - 8. Sexual Assault (third degree) (28-320)
  - 9. Domestic Assault (28-323)
  - 10. Child/Vulnerable Adult Contact with Methamphetamine (28-457)
  - 11. Abandonment of Spouse or Child (28-705)
  - 12. Child Abuse (28-707)
  - 13. Contributing to the Delinquency of a Child (28-709)
  - 14. Prostitution (28-801)
  - 15. Keeping a Place of Prostitution (28-804)
  - 16. Debauching a Minor (28-805)

17. Public Indecency (28-806)
18. Sale of Obscene Material to Minor (28-808)
19. Obscene Motion Picture Show, Admitting Minor (28-809)
20. Obscene Literature Distribution (28-813)
21. Sexually Explicit Conduct (28-813.01)
22. Resisting Arrest (28-904 (1)(a)), when the conviction involves use or threat of physical force or violence against a police officer
23. Indecency with an Animal (28-1010)
24. Intimidation by Phone Call (28-1310)
25. Violating a Protection Order (42-924)

**Other convictions related to such crimes including:**

26. Attempt to Commit a Crime (28-201)
27. Criminal Conspiracy (28-202)
28. Accessory to a Felony (28-204)
29. Aiding, Abetting, Procuring, or Causing Another to Commit an Offense (28-206)

Convictions which have been set aside, nullified, expunged, or pardoned shall not be considered convictions for purposes of this Rule, unless the laws of the jurisdiction of the conviction would allow the conviction to be used as the basis for denial of a certificate to teach, administer, or provide special services in schools.

- F. Shall, with reasonable diligence, attend to the duties of his or her professional position.

**V. Principle IV - Commitment to the Profession:**

In belief that the quality of the services to the education profession directly influences the nation and its citizens, the educator shall exert every effort to raise professional standards, to improve service, to promote a climate in which the exercise of professional judgment is encouraged, and to achieve conditions which attract persons worthy of the trust to careers in education. The educator shall believe that sound professional relationships with colleagues are built upon personal integrity, dignity, and mutual respect.

In fulfillment of the obligation to the profession, the educator:

- A. Shall provide upon the request of an aggrieved party, a written statement of specific reasons for recommendations that lead to the denial of increments, significant changes in employment, or termination of employment.
- B. Shall not misrepresent his or her professional qualifications, nor those of colleagues.
- C. Shall practice the profession only with proper certification, and shall actively oppose the practice of the profession by persons known to be unqualified.

**VI. Principle V - Commitment to Professional Employment Practices:**

The educator shall regard the employment agreement as a pledge to be executed both in spirit and in fact.

The educator shall believe that sound personnel relationships with governing boards are built upon personal integrity, dignity, and mutual respect.

In fulfillment of the obligation to professional employment practices, the educator:

- A. Shall apply for, accept, offer, or assign a position or responsibility on the basis of professional preparation and legal qualifications.
- B. Shall not knowingly withhold information regarding a position from an applicant or employer, or misrepresent an assignment or conditions of employment.
- C. Shall give prompt notice to the employer of any change in availability of service.
- D. Shall conduct professional business through designated procedures, when available, that have been approved by the employing agency.
- E. Shall not assign to unqualified personnel, tasks for which an educator is responsible.
- F. Shall permit no commercial or personal exploitation of his or her professional position.
- G. Shall use time on duty and leave time for the purpose for which intended.

Legal Reference: Neb. Rev. Stat. §§79-859, 79-866; 92 NAC 27, 92 NAC 21

Rule Approved: October 7, 1974

Revised: August 3, 1992; January 5, 1998; May 3, 2004; September 7, 2010

Reaffirmed: June 2, 2003

Millard Public Schools  
Omaha, NE

**Category: Human Resources**

**Policy: Copyright Compliance**

**4156**

District personnel shall comply with the requirements of the Copyright Act, 17U.S.C§ 101 et seq. Under the direction of the superintendent, the administration shall establish and maintain procedures governing compliance with the Copyright Act.

**Related Policies and Rules:** [4157](#), [5800](#), [6265](#), [4156.1](#), [4157.1](#), [5800.1](#), [6810.1](#)

**Legal Reference:** The Copyright Act

**Date of Adoption:** July 15, 2002

Millard Public Schools  
Omaha, NE

**Category: Human Resources**

**Policy: Copyright Compliance**

**Rule: Copyright Compliance – Accountability for Compliance**

**4156.1**

District personnel will comply with District’s copyright policies, rules, procedures, and have the following responsibilities regarding compliance with the requirements of the Copyright Act:

- I. Educational Services
  - A. Comply with District copyright policies, rules, and procedures in the development and implementation of the curriculum.
  
- II. Office of Information Services/Media Department
  - A. Support the implementation of and compliance with District copyright policies, rules and procedures.
  - B. Archive all written copyright permissions for the District.
  
- III. Building Administration
  - A. Know and understand the District’s copyright policies, rules, and procedures.
  - B. Ensure compliance with the District’s copyright policies, rules, and procedures.
  
- IV. Teaching Staff
  - A. Know and understand copyright policies, rules, and procedures.
  - B. Abide by copyright policies, rules and procedures.
  
- V. Information Specialists
  - A. Know and understand the District’s copyright policies, rules and procedures.
  - B. Provide accurate and timely information on the District’s copyright policies, rules, and procedures.
  
- VI. Secretaries and Paraprofessionals
  - A. Monitor and seek clarification regarding copyright matters.
  - B. Comply with the District’s copyright policies, rules, and procedures.

**Legal Reference:** The Copyright Act

**Date of Adoption:** July 15, 2002

Millard Public Schools  
Omaha, NE

**Category: Pupil Services**

**Policy: District Computers, Software, and Data Files**

**5800**

District students will adhere to the laws, policies, and rules governing computers including, but not limited to, copyright laws, rights of software publishers, license agreements, acts of terrorism, assault, threats, and student rights of privacy created by federal and state law.

**Legal Reference:** Copyright Acts 20 U.S.C. § 1232g  
Neb. Rev. Stat. § 79-2, 104  
Neb. Rev. Stat § 28-1341 et seq.

**Date of Adoption:** June 20, 1994

**Date of Revision:** December 20, 1999: February 19, 2001

Millard Public Schools  
Omaha, NE

**Category: Pupil Services**

**Policy: District Computers, Software, and Data Files**

**Rule: Compliance with Applicable Law and Use of District Computers 5800.1**

**I. Compliance With License Agreements**

The District will comply with license agreements and/or policy statements contained in software packages used by the District. Questions about compliance with license agreements or use of a software package will be resolved through direct negotiation and mutual agreement with the software publisher, copyright holder, and/or licensor.

**II. Computer Use Rules**

In an effort to prevent violation of copyright laws and illegal software use, the following rules will apply:

- A. The legal and ethical implications of software use will be taught to personnel and students at all levels where there is software use.
- B. The building principal, principal's designee, or appropriate supervisor or teacher will be responsible for information District students of the District Computer and Software Policy and Rules.
- C. When permission is obtained from a copyright holder to use software on a disk-sharing system, reasonable efforts will be made to prevent unauthorized copying.
- D. Under no circumstances will illegal copies of copyrighted software be made or used on District equipment.
- E. The District technology department will appoint a designee to sign software license agreements for District schools. Each school using licensed software shall keep a file containing a signed copy of software agreements.
- F. The school principal or principal's designee will be responsible for establishing practices which will enforce the District Compute and Software Policy and Rules.
- G. The following uses of District computers will be strictly prohibited:
  1. **Offensive Messages**  
The Use, display or transmission of sexually explicit images, messages, or cartoons; ethnic slurs or racial epithets; or acts of terrorism, assault, or threats.
  2. **Personal, Commercial, and/or Religious Messages**  
Use for the purpose of solicitation or proselytization for commercial, religious, political, personal or any other non-student-related activity.
  3. **Computer Hackers**  
Any unauthorized use by students of District computers, including improper access of any District computer, which violates federal or state law.
  4. **Inappropriate use of E-mail and or Internet**  
The use of the District's network, internet, and e-mail system, for purposes other than designated coursework, or for the downloading, viewing, or printing of internet material inappropriately dealing with drugs and/or alcohol or dealing with dangerous materials (that could be used in the manufacture of bombs and explosive devices) or weapons.
  5. **Chat Rooms on the Internet**

Unless called for by the curriculum and regulated by District staff, students are not to use “chat rooms” on the internet.

### III. Review by District

District computers, programs, software, and networks are for educational use only, and any information carried or contained on District computers is subject to review by the District. If a student uses a non-District computer in a manner which provides access to or affects networks or information contained or stored in a District computer, this Rule shall be deemed to be violated.

### IV. Prohibited Access

If a student or a student’s parent has a District internet account, a non-District internet account, or any other account or program which would enable direct or indirect access to a District computer any access thereto in violation of this Rule or any other District Rule may result in student discipline. If a student uses a computer to gain prohibited access to an account or accounts that the District has through a lease, rental agreement, or other contract with a third party including, but not limited to, the District’ educational service unit, such student will be subject to student discipline under District Rule.

### V. Violations

Violation of any part of the Rule may result in disciplinary action. In the case of computer hackers, this may include the notification of the appropriate federal or state law enforcement agency.

### VI. Reservation of Rights

The District reserves all rights it has under the fair use doctrine of the Copyright Acts.

### VII. Definitions

#### A. Computer Hacker

Computer hacker shall mean a computer user who attempts to gain unauthorized access to proprietary computer systems

#### B. Indirect Access to a District Computer

Indirect access to a District computer shall mean using a non-District computer in a manner which results in the user gaining access to a District computer, including access to any and all information, records, or other material contained or stored in a District computer.

**Related Policy and Rules:** 5800, 5400.1, 5400.2

**Legal Reference:** Copyright Acts; Neb. Rev. Stat § 28-1341 et seq.

**Date of Adoption:** June 20, 1994

**Date of Revision:** December 20, 1999; February 19, 2001

Millard Public Schools  
Omaha, NE

**Category: Curriculum, Instruction, and Assessment**

**Policy: Copyright Compliance**

**6265**

Teacher materials (print and non-print) which are used with students in conjunction with the instruction of students must be aligned with the District's written curriculum and legally acquired. Copyrighted print, audio, video, software and other media may be reproduced only when the use by reproduction is a fair use in compliance with the Copyright Act or when the written permission for such use by reproduction has been obtained from the copyright holder.

**Related Policies and Rules:** 4157, 5800, 4156.1, 47157.1, 5800.1, 6810.1

**Legal Reference:** The Copyright Act

**Date of Adoption:** July 15, 2002

**Date of Revision:** November 3, 2008

Millard Public Schools  
Omaha, NE

**Category: Curriculum, Instruction, and Assessment**

**Policy: Public Access to School Materials and Documents**

**Rule: Public Access to School Materials and Documents**

**6810.1**

- I. Any documents or other materials requested for examination will be made available during the hours and days when the offices of the school or other District facilities are open. Requests by parents or guardians to examine the materials being used or planned for use in teaching their son/daughter will be honored but, to avoid interruption of the classroom environment, parents will follow those procedures listed in items II-IV (below). Requests, other than those from parents or guardians, shall be made in writing and shall state with as much specificity, as is reasonable, a description of the documents and materials which are requested to be examined.
- II. Persons making the request will be provided facilities where the examination can be made and where the examining person or persons can make such memoranda and abstracts as may be desired.
- III. Request for copies of documents and other materials will be provided by the District subject to the following conditions:
  - A. No documents or other materials which are subject to a copyright or subject to copyright laws shall be copied; and
  - B. Requests for copies shall be submitted on forms provided by the District. The District will provide the copies within a reasonable time and whenever the work required to make the copies does not interfere with the ordinary transaction of the business of the District or interfere with the conduct of the District's educational programs.
- IV. When the District provides copies of documents or other materials, the copies will be provided if the person making the request agrees to pay the District the charges established for providing copies. Charges will be a reasonable estimate of the cost of the materials, and employees' time in making the copies and a reasonable charge for the use of the copying machine or machines. The charges will be established from time to time and the person or persons making the request shall be notified of the charges at the time the request to the District is made.

**Related Policy:** 6810

**Legal Reference:** Neb. Rev. Stat. §84-712 et seq.

**Date of Adoption:** March 7, 1994

**Date of Revision:** September 13, 1999

**Date of Reaffirmation:** April 13, 1998; November 6, 2006

Millard Public Schools  
Omaha, NE

**Category: Technology**

**Policy: Use of District Computers, Software and Data Files**

**7100**

District personnel will adhere to the laws, policies, and rules governing computers including, but not limited to, copyright laws, rights of software publishers, license agreements, acts of terrorism, assault, threats and personnel and student rights of privacy created by federal and state law. April 2, 2007: Renumbered from 4157

**Related Rules:** [7100.1](#), [7100.2](#), [7100.3](#)

**Legal Reference:** The Copyright Act; Family Educational Rights and Privacy Act; Neb. Rev. Stat. §§ 79-2, 104 and 79-8, 109 (Reissue 1996).

**Date of Adoption:** May 17, 1993

**Date of Revision:** Dec. 20, 1999, April 2, 2007

Millard Public Schools  
Omaha, NE

**Category: Technology**

**Policy: Use of District Computers, Software and Data Files**

**Rule: Compliance with Applicable Law**

**7100.1**

The District will comply with license agreements and/or policy statements contained in software packages used by the District. Questions about compliance with license agreements or use of a software package will be resolved through direct negotiation and mutual agreement with the software publisher, copyright holder, and/or licensor.

In an effort to prevent violation of copyright laws and illegal software use, the following rules will apply:

- I. The legal and ethical implications of software use will be taught to personnel and students at all levels where there is software use.
- II. The building principal, principal's designee or appropriate supervisor will be responsible for informing district personnel of the District Computer and Software Policy and Rules.
- III. When permission is obtained from a copyright holder to use software on a disk-sharing system, reasonable efforts will be made to prevent unauthorized copying.
- IV. Under no circumstances will illegal copies of copyrighted software be made or used on district equipment.
- V. The Executive Director of Technology or designee is authorized to sign software license agreements for district schools. The district and each school using licensed software shall keep a file containing a signed copy of software agreements for that school.
- VI. The school principal or principal's designee will be responsible for establishing practices which will enforce the District Computer and Software Policy and Rule.
- VII. The following uses of district computers and telecommunications devices will be strictly prohibited:
  - A. **Offensive Messages.** The use, display or transmission of (i) sexually explicit images, messages, cartoons; (ii) ethnic slurs or racial epithets; or (iii) acts of terrorism, assault or threats.
  - B. **Personal, Commercial, and/or Religious Messages.** Use for the purpose of solicitation or proselytization for commercial, religious, political, personal or any other non-job-related activity.
  - C. **Inappropriate Use of E-Mail and/or Internet.** The use of the District's network, internet, e-mail system and telecommunications systems, shall remain under the control of the District and may only be used for district business subject to applicable law, policy and rule. This includes, but is not limited to, the downloading of any inappropriate materials, games, or other files not required for staff to fulfill their job duties. Sexual harassment delivered by e-mail is covered by the same policy and rule which covers verbal or physical harassment.

Violation of this rule may result in disciplinary action.

The District reserves all rights it has under the fair use doctrine of the Copyright Act.

**Related Rules:** [7100.1](#), [7500](#), [7100.2](#), [7100.3](#), [7500.1](#)

**Legal Reference:** The Copyright Act

**Date of Adoption:** May 17, 1993

**Date of Revision:** Dec. 20, 1999, April 2, 2007; April 13, 2009

Millard Public Schools  
Omaha, NE

**Category: Technology**

**Policy: Web Publishing**

**7305**

The Millard School District and its schools will communicate using the World Wide Web to inform the public in order to advance the mission of the District. All district web sites shall be used only for purposes related to district communications, to the educational curriculum of the District and/or administration of the District. Commercial, political, and/or private use of any of the District's web sites is strictly prohibited except as approved by the Superintendent or designee. All computers either owned or leased by the District are public property and no right of individual privacy shall extend to the information or communications stored or contained in the computer or any of its components or software. The administration reserves the right to monitor any computer activity and on-line communications for improper use.

**Related Rules:** 1102.1, [5710.1](#)

**Date of Adoption:** July 17, 2000

**Date of Revision:** May 2, 2005

**Date of Last Review:** October 6, 2008

Millard Public Schools  
Omaha, NE

**Category: Technology**

**Policy: Web Publishing**

**Rule: Web Publishing**

**7305.1**

**I. Accountability**

- A. Each staff member who creates a web page or any part of a web page or supervises the creation of a web page is responsible for the content and must inform the Superintendent/designee or principal/designee of the existence and the intent/purpose of the page prior to such web site being accessible on the World Wide Web. This includes student-produced web content.
- B. Each web page author or contributing web page author shall assume personal responsibility for the information being current, accurate (including having correct spelling and grammar), and adhering to district policies and rules. This includes students who author or contribute to the creation of a web page.
- C. All district or building web sites shall have a staff member who shall monitor and be responsible for approving the content of the information, which is accessible on each web site.
- D. The content of the information shall be in compliance with the Millard Public Schools policy/rules including, but not limited to, the rules for Journalism: Prohibited Expressions (6605.1) and Internet Safety Filtering (7310.1).
- E. Guidelines for web pages shall be established by the Superintendent or designee and shall be published in the District's Technology User's Manual.

**II. Privacy**

- A. All reasonable steps shall be taken to insure that the use of the Internet or World Wide Web shall not abridge the right of privacy of students or staff as provided by law, including but not limited to the Family Educational Rights and Privacy Act (FERPA).
- B. Parent permission shall be obtained prior to publishing photographs of students when the students are identified by first and/or last names except where such photograph is contained in other official district press or media releases and district or school publications such as a school newsletter, school annual, or school newspaper
- C. Group and individual photographs may be published without permission if names are not used.
- D. Student Directory Information (as described below) may be made available on Millard School District web pages in compliance with the District's Policy and Rules. Directory information appropriate for the web includes the following:
  - 1. First and last name (without photographs unless parent permission is obtained as stated above)
  - 2. Current grade level
  - 3. Participation in officially recognized activities and sports
  - 4. Weight and height of members of athletic teams
  - 5. Degrees and awards received
  - 6. Photographs (without first and last names unless parent permission is obtained as stated above)

### **III. Project PAYBAC Partners, PTO/PTA Organizations, and Booster Clubs**

- A. Project PAYBAC partners, PTO/PTA organizations, and Booster Clubs may be identified as supporters of the Millard Public School District.
- B. There shall be no web links to commercial web sites that are of a promotional nature except as approved by the Superintendent or designee.
- C. District or building web sites may contain links to governmental agencies, district-affiliated organizations, which were organized and exist for the sole purpose of supporting the District's educational and extracurricular programs, other educational institutions, public libraries, and public museums.

### **IV. Fundraising Activities**

- A. Information about school-related fundraising activities can be published including information about the product, the name of the sponsor and/or telephone number.
- B. There shall be no on-line purchasing and such use of the District's computers is strictly prohibited unless authorized by the Superintendent or designee.
- C. District and building websites shall not facilitate online purchasing unless authorized by the Superintendent or designee.

### **V. Interactive Use**

- A. District E-mail addresses of Millard staff and board members are allowed to be published.
- B. When district e-mail addresses are published, the following disclaimer should appear on that page: "These e-mail addresses are for use by staff, students, and parents relating to school business only. Solicitation is prohibited."
- C. Individual student's grades may be disseminated but must be protected by a unique password for each student on servers as identified in Section VI.

### **VI. Where Information Resides**

- A. All web sites shall be accessible to the World Wide Web on District-controlled servers under the District domain name or on servers approved by the Superintendent or designee.
- B. All district policy/rules apply regardless of where the web sites reside.

**Related Policies and Rules:** [1115](#) , [4157](#) , [5710](#) , [7305](#) , [7310](#) , [1306.1](#) , [4157.1](#) , [4157.2](#) , [4157.3](#) , [5510.1](#) , [5710.1](#) , [5800.1](#) , [5800.3](#) , [6605.1](#) , [7310.1](#)

**Date of Adoption:** July 17, 2000

**Date of Revision:** September 10, 2001; May 2, 2005; October 6, 2008

Millard Public Schools  
Omaha, NE