

**POWAY UNIFIED SCHOOL DISTRICT  
ADMINISTRATIVE PROCEDURE**

**Originator:** Area Superintendent

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**Page:** 1 of 7

**Reference:** EC 35182, USC Title 17

**ARTICLE: 3.0 EDUCATIONAL PROGRAM**

**3.28 USE OF COPYRIGHTED MATERIAL**

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**SECTION 3.28.1 Guidelines for Use of Copyrighted Materials**

It is the intent of the District that all staff members and students shall adhere to the provisions of copyright laws in the use of instructional materials. The ethics of lawful use shall be part of the District curriculum. The principal of each school or department manager is responsible for establishing practices which will enforce these procedures at the school or department level. All procedures apply to students and staff unless specified otherwise.

Each employee or student making a reproduction shall first determine whether the copying is permitted by law based on the guidelines below. If the copying is not permitted according to these guidelines, the employee or student may request permission to reproduce the material from its copyright holders.

Requests for permission to use copyrighted materials shall include the following information:

1. Title, author(s), editor(s) or publisher, producer(s), or distributor.
2. Edition, copyright, and/or production year.
3. Exact amount of material to be used (i.e., lines, pages, running time, etc.). With printed material, a copy of the text to be copied might be attached.
4. Nature of the use (i.e., how many times, when, and with whom the material will be used.)
5. Number of copies made.
6. How the material will be reproduced.
7. If an initial contact was made by phone, the request shall also include the name of the initial contact person.

**Printed Materials**

Permitted Use – An individual **may** make or request:

1. Single copies of:
  - a. A chapter of a book.
  - b. An article from a magazine 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 a picture from a book, magazine, or newspaper.
2. Multiple copies for classroom use (not to exceed one copy per student in a course) of:
  - a. A complete poem if less than 250 words.
  - b. An excerpt from a longer poem, but not to exceed 250 words.

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- c. A complete article, story, or essay of less than 2,500 words.
- d. An excerpt from a larger prose work not to exceed 10 percent of the whole or 1,000 words, whichever is less.
- e. One chart, graph, diagram, cartoon, or picture per book or magazine issue.

All preceding copies must bear the copyright notice. They may be made only at the discretion of the individual teacher on occasions when a delay to request permission would preclude their most effective instructional use.

Materials which do not bear notice of copyright and are considered in the public domain may be copied in accordance with the Copyright Act. Copies may be made of out-of-print works which cannot be obtained at a fair price.

Prohibited Uses – An individual educator may not:

- 1. Copy more than one work or two excerpts from a single author during one class term.
- 2. Copy more than three works from a collective work of periodical volume during one class term.
- 3. Copy materials for more than one course in the school where the copies are made.
- 4. Reproduce more than nine sets of multiple copies for distribution to students in one class term.
- 5. Copy to create, replace, or substitute for anthologies or collective works.
- 6. Copy "consumable" works such as workbooks, standardized tests, answer sheets, etc.
- 7. Copy materials that substitute for the purchase of books, publishers' reprints, or periodicals.
- 8. Copy the same work from term to term. This does not apply to current news magazines and newspapers.

**Sheet and Recorded Music**

Permitted Uses – An individual educator **may**:

- 1. Make emergency copies for an imminent performance, provided that purchased replacement copies shall be substituted in a timely manner.
- 2. Make multiple copies (one per student) of excerpts not constituting an entire performance unit or more than 10 percent of the total work for academic purposes other than performances.
- 3. Edit or simplify purchased sheet music provided the character of the work is not distorted or lyrics added or altered.
- 4. Retain a single copy of a recorded performance by students for evaluation or rehearsal purposes.
- 5. Make and retain a single copy of recordings of copyrighted music owned by the District or individual teacher for the purpose of constructing exercises or examinations.

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6. Make a single copy of an excerpt that constitutes an entire performable unit (i.e., a movement or aria) provided it is either:
  - a. Confirmed by the copyright proprietor to be out of print, or
  - b. Unavailable except in a larger work.

This may be done by or for a teacher only for scholarly research or in preparation for teaching a class.

7. Make a single copy of a portion of sound recording for a student (e.g., a song from a record) but not the entire recording. The copy may be used in the educational context in which it was made and may not be sold or performed for profit.

Prohibited Uses – An individual educator **may not**:

1. Copy to replace or substitute for anthologies or collections.
2. Copy from works intended to be "consumable."
3. Copy for purposes of performance except as noted in an emergency.
4. Copy to substitute for purchase of music.
5. Copy without inclusion of copyright notice on the copy.
6. Duplicate audio recordings unless reproduction rights were given at time of purchase.
7. Reproduce or convert musical works to another format (e.g., record to tape) unless permission is secured.

Prohibited Use – A student may not:

1. Duplicate copyrighted sheet music.
2. Copy a sound recording.

**Videotapes, Films, Filmstrips, or Slide Programs**

Section 110 (1) of the U.S. Copyright Law clearly permits the showing of motion pictures and other audiovisual materials in the classroom of a nonprofit educational institution as long as the showing is part of "face-to-face" instruction and not presented for recreational or entertainment purposes. Whether purchased or rented, video cassettes bearing the label "For Home Use Only" come under this provision and **may be used for planned direct classroom instruction**. They may not be used for entertainment, fund-raisers, or time fillers unless such use was negotiated at the time of purchase or rental, usually in the form of a licensing agreement. When renting from a video store, the renter agrees to all stated or implied conditions of the rental agreement; renters may therefore wish to request a release statement from the rental agency specifically granting permission for instructional use of the rented cassette.

Permitted Uses:

1. A single copy of a portion of a copyrighted film or filmstrip may be made by a student for educational purposes if the material is owned by the school which the student attends.

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2. A single copy of a portion of a film or filmstrip may be made by or for a teacher for scholarly or teaching purposes.
3. Selected slides may be reproduced from a series if reproduction does not exceed 10 percent of the total or excerpt the essence of the work.
4. A slide or overhead transparency series may be created from multiple sources as long as creation does not exceed 10 percent of photographs in one source (book, magazine, filmstrip, etc.). This may not be done when the source forbids photographic reproduction.
5. A single overhead transparency may be created from a single page of a "consumable" workbook.
6. Sections of film may be excerpted for a local videotape (not to be shown over cable) if they do not exceed 10 percent of the total or excerpt the essence of the work.

**Prohibited Uses:**

1. Reproduction of an audiovisual work in its entirety may not be made.
2. Conversion from one media format to another (e.g., film to videotape) may not be done unless permission is secured.
3. No one is permitted to copy any portion of a film or filmstrip sent to the school for preview or rented or owned by another school or institution without the express permission of the copyright holder.
4. The copyright of a film governs its performance (showing) as well as the copying of it. It is permissible to show a film to students using closed-circuit television if the system is confined to one building. Showing a film via closed-circuit television outside the building is not permitted.

**Television – Off-Air Taping****Permitted Uses:**

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained for a period not to exceed 45 days. All off-air recordings shall be erased or destroyed at the end of the retention period. Broadcast programs are television programs transmitted for reception by the general public without charge.
2. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities and repeated once only when instructional reinforcement is necessary. These recordings may be shown in classrooms and similar places devoted to instruction within a single building, cluster, or campus, as well as in the homes of students receiving formalized home instruction, during the first ten consecutive schools days in the 45-calendar day retention period.
3. Off-air recordings may be made only at the request of individual teachers for use by those teachers.
4. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording.

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5. After the first ten consecutive school days, off-air recordings may be used up to the end of the 45-calendar day retention period only for teacher evaluation purposes (i.e., to determine whether or not to include the broadcast program in the teaching curriculum); they may not be used for student exhibition or any other nonevaluation purpose without authorization.
6. All copies of off-air recordings shall include the copyright notice on the broadcast programs as recorded.
7. Individual educators may use purchases or rented video tapes (i.e., feature films) as part of a systematic course of instruction. Such use shall be face-to-face instruction and must take place in a classroom or similar area devoted to instruction. Permission must be obtained from the principal or designee before an individual teacher uses a feature film or videotape in its entirety unless it has been approved as a regularly-used instructional material.

**Prohibited Uses:**

1. The copying or use of programs transmitted via subscription television cable services (e.g., HBO and Showtime) is illegal. Such programs are licensed for private/home use only and may not be used in public schools. **(This is a particularly important point which should be widely communicated.)**
2. Off-air recordings may not be made by school staff in anticipation of teacher requests.
3. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.
4. Individual educators may not hold a recording for weeks or indefinitely because:
  - a. Units needing the program concepts are not taught within the ten-day period.
  - b. An interruption or technical problem delayed its use.
  - c. Another teacher wishes to use it, or for any other supposedly "legitimate" educational reason.
5. On occasion a special notice is provided with some materials specifically prohibiting reproduction of any kind. Permission to use any part of such works must be secured in writing from the author or producer in accordance with this regulation.
6. Off-air recordings need not be used in their entirety, but the content of recorded programs may not be altered. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

**Radio Off-Air Taping****Permitted Uses:**

1. A single copy of a small portion of a copyrighted radio program may be made by a student for educational purposes. Such a copy may not be sold or performed for profit.
2. Copies of broadcasts by National Public Radio may be made by District employees and retained for an indefinite period for educational purposes. Rights for extended use should be obtained in writing from the agency or individual holding distribution rights.

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## Prohibited Uses:

1. Copying broadcasts on commercial radio is governed by the same copyright laws that apply to off-air taping of commercial television; however, there is no special provision allowing libraries to tape radio news programs.

**Emerging Technologies**

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

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

**Computer Software Copyright Regulations**

Permitted Uses – An individual may:

1. Make a copy of an original program if the license allows for the purpose of maintaining the availability of the program should it be damaged during use. Either the copy or the original may be retained in archives. Only one, either the original or the copy, may be used at any one time.
2. Make a copy of a program as an essential step in the utilization of the computer program to conform to mechanical requirements of another machine.
3. Make a new copy from the archival program in the event the program in use is damaged or destroyed.

Prohibited Uses – An individual **may not**:

1. Load the contents of one disk into multiple computers for use at the same time in the absence of a license permitting the user to do so.
2. Load the contents of one disk into local network or disk sharing systems in the absence of a license permitting the user to do so.
3. Make or allow others to make or use illegal copies of copyrighted programs.

**Reproduction of Works by Libraries**

The Copyright Act imposes extensive restrictions on reproduction of works by school libraries. Libraries must display notices to the effect that making a copy may be subject to the copyright law. A suggested notice is:

The United States Copyright Act of 1976 governs the copying of copyrighted materials. The person using this equipment is liable for

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any infringement.

Systematic duplication of multiple copies is forbidden by law with the following exceptions:

Permitted Use – A librarian may:

1. Arrange for inter-library loans, provided that copying is not done to substitute for subscriptions to or purchase of work.
2. Make up to six copies of a periodical article published within the last five years or excerpts from longer works.
3. Make single copies of articles or excerpts of records or longer works for students, provided the articles become the property of the student.
4. Make copies of unpublished works for preservation, published works to replace damaged copies, and out-of-print works which cannot be obtained at a fair price.
5. Make a limited number of off-air tape recordings of TV news broadcasts for researchers' academic use and distribution of scholars.
6. Selectively make a copy – for preservation or security in accordance with fair use – a musical work, pictorial, graphic, sculptural work, motion picture, or other audio visual work if the current copy owned is deteriorated, lost, or stolen and it has been determined that an unused copy cannot be obtained at a fair price.

Prohibited Uses – A librarian **may not**:

1. Make copies for students if there is reason to suspect that the students have been instructed to obtain copies individually.
2. Copy without including a notice of copyright.