

## SANTA ANA UNIFIED SCHOOL DISTRICT

AR 6162.6(a)

### Instruction

#### Use of Copyrighted Materials

Each employee 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 principal/designee 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.).
4. Nature of the use (i.e., how many times, when and with whom the material will be used).
5. Number of copies to be 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.

The following guidelines differentiate between permitted and prohibited uses of printed material, sheet and recorded music, videotapes, films, filmstrips or slide programs, off-air taping (radio or television), and computer software.

#### **General Considerations**

1. Assuming the use is for classroom instruction, the next criteria used is "nature of the work." The guidelines below explain what is permissible for each format. Generally, copying should not exceed ten percent of the total work nor excerpt the creative "essence" of the work (e.g., the two-minute time-lapse metamorphosis scene from the "Monarch Butterfly" is the essence of the film).
2. Occasionally there is a special note on 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.
3. In no case shall any District employee or student use District equipment for duplication or playback which would prevent and circumvent the sale of materials by the copyright owner.

**Printed Materials**

Permitted Use:

1. Single copies at the request of an individual teacher 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 at the request of an individual teacher 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, not to exceed 250 words.
  - c. A complete article, story or essay of less than 2,500 words.
  - d. An excerpt from a larger printed work not to exceed ten 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.

Prohibited Uses:

1. Copying more than one work or two excerpts from a single author during one class term.
2. Copying more than three works from a collective work or periodical volume during one class term.
3. Copying materials for more than one course in the school where the copies are made.
4. More than nine sets of multiple copies for distribution to students in one class term.
5. Copying used to create, replace or substitute for anthologies or collective works.
6. Copying of "consumable" works such as workbooks, standardized tests, answer sheets, etc.

7. Copying that substitutes for the purchase of books, publishers' reprints or periodicals.
8. Repeated copying of the same item by the same teacher from term to term.

The above prohibitions do not apply to current news magazines and newspapers.

### **Sheet and Recorded Music**

#### Permitted Uses:

1. Emergency copies for an imminent performance are permitted, provided they are replacing purchased copies and replacement is planned.
2. Multiple copies (one per student) of excerpts not constituting an entire performable unit or more than ten percent of the total work may be made for academic purposes other than performances.
3. Purchased sheet music may be edited or simplified provided the character of the work is not distorted or lyrics added or altered.
4. A single copy of a recorded performance by students may be retained by the District or individual teacher for evaluation or rehearsal purposes.
5. A single copy of a sound record of copyrighted music owned by the District may be made and retained for the purpose of constructing exercises or aural examinations and retained for same.

#### Prohibited Uses:

1. Copying to replace or substitute for anthologies or collections.
2. Copying from works intended to be "consumable."
3. Copying for purposes of performance, except for 1a above.
4. Copying to substitute for purchase of music.
5. Copying without inclusion of copyright notice on the copy.
6. Hiring a consultant(s) (such as an acting or musical troupe) to present selections from a copyrighted musical, play, operetta, etc., where neither the consultant(s) nor the school have paid royalties for this presentation.

#### Procedure to request Permission to Copy:

1. Where a teacher (or person requested by a teacher) desires to copy material that is prohibited, the person doing the copying will secure written permission from the copyright owner using the "Request for Authorization to Duplicate Copyrighted Material" form (Appendix A) or a letter covering all items of the form.

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2. The form or letter granting permission shall be kept on file by the originator for as long as the material is being used, plus three years.

**Audio-Visual Works**

Permitted Uses:

1. Creating a slide or overhead transparency series from multiple sources as long as creation does not exceed ten percent of photographs in one source (book, magazine, filmstrip, etc.) unless the source forbids photographic reproduction.
2. Creating a single overhead transparency from a single page of a "consumable" workbook.
3. Reproducing selected slides from a series if reproduction does not exceed ten percent of total nor excerpt the "essence".
4. Excerpting sections of a film for a local videotape (not to be shown on open-circuit television) if excerpting does not exceed ten percent of total nor "the essence" of the work.
5. Stories of literary excerpts may be narrated on tape and duplicated, as long as similar material is not available for sale.

Prohibited Uses:

1. Duplication of tapes unless reproduction rights were given at time of purchase.
2. Reproduction of musical works or conversion to another format (e.g., record to tape).
3. Reproduction of commercial "ditto masters," individually or in sets (including multimedia kits) if available for sale separately.
4. Reproduction of any audiovisual work (film, filmstrip, videotape) in its entirety unless duplication rights were secured in writing at the time of acquisition.

Procedure to Request Permission to Copy:

1. Where a teacher (or person requested by a teacher) desires to copy material that is prohibited, the person doing the copying will secure written permission from the copyright owner using the "Request for Authorization to Duplicate Copyrighted Materials" form (Appendix A) or a letter covering all items of the form.
2. The form or letter granting permission shall be kept on file by the originator for as long as the material is being used, plus three years.
3. Duplications right of videos available for checkout from the District's ITV Department will be clearly stated in the ITV Video Catalog.

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

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.
2. A single copy of a small 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 ten 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 ten 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 a film may be excerpted for a local videotape (not to be shown over cable) if they do not exceed ten percent of the total or excerpt the essence of the work. Extreme care must be exercised in copying a small portion of a film or filmstrip; small portions may contain the very essence of the material in question.

Prohibited Uses:

1. Reproduction of an audiovisual work in its entirety.
2. Conversion from one media format to another, e.g., film to videotape, 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 written permission of the copyright holder. 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.

Authorization is granted by the Santa Ana Board of Education to its Superintendent to approve the use of films restricted by the Orange County Board of Education when such films are to be used either as parent education, or when these films are to be used with children outside of the regular school day and the parents or legal guardians are in attendance at the time of the showing of the film or have indicated their expressed written approval of their children's attendance.

## Computer Software

### Permitted Uses:

Making (or authorizing the making) of a back-up copy of a computer program provided.

1. That such a new copy or adaptation is created as an essential step in the utilization of the computer program in conjunction with a machine and it is used in no other manner, or
2. That such a new copy or adaptation is for archival purposes only and that all archival copies are destroyed in the event that continued possession of the computer program should cease to be rightful.

### Prohibited Uses: (In absence of a licensing agreement)

1. Creation on any new copies of copyrighted programs for any purpose other than those listed under Permitted Uses above.
2. Creation of new copies while using a disk-sharing or network system.
3. Use of District-owned equipment for making illegal copies.

### Procedure to Request Permission to Copy:

1. Where a teacher (or person requested by a teacher) desires to copy material that is prohibited, the person doing the copying will secure written permission from the copyright owner using the "Request for Authorization to Duplicate Copyrighted Material" form or a letter covering all items of the form.
2. The form or letter granting permission shall be kept on file by the originator for as long as the material is being used, plus 3 years.
3. The person making legally-allowed copies will mark the documentation and the master disk indicating what copies have been made, when external permission was granted, and where the permission form (or letter) is filed.

## Television/Video

### Permitted Uses:

1. Except those programs noted "no videotaping permitted," RETAC (Regional Educational Television Advisory Council) programs broadcast by either the District ITV or KCET Channel 28 may be recorded and kept on tape until September 1st of the next school year. Permission to copy and retain RETAC programs is granted to RETAC members only. The rights to these programs are negotiated on a yearly basis. Members will be notified when the rights cease. Upon receipt of the notification members must erase all copies of programs of which rights have been terminated. Additionally, these rights are valid only so long as the District retains active membership in RETAC.

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2. All programs listed in the District ITV Video Catalog as "EVD" (Electronic Video Delivery) may be scheduled for broadcast over District ITV for recording by the school. Such recordings may be kept on tape until the end of the current school year and then erased. The rights to broadcast and duplicate these videos are negotiated yearly; therefore, holding these tapes beyond the current year may be illegal.
3. Videos produced by the District may be duplicated and held indefinitely.
4. Off-air broadcasts provided to the public at no charge (excludes pay TV) may be recorded within schools only at the written request of an individual teacher for classroom instructional purposes.

- a. No broadcast program may be recorded more than once for the same teacher. The tape cannot be used by other teachers.
  - b. Prior to being shown to students, the video must be previewed and certified by the teacher that the contents and language are suitable and appropriate for classroom use. Certification will be in writing on District Film/Video Evaluation form and submitted to Principal (or designee) for approval prior to classroom use.
  - c. The video may be used once by an individual teacher for relevant educational classroom activities and once for necessary reinforcement as part of a systematic instructional plan during the first ten (10) consecutive school days after recording. After this allowable classroom use, the tape must be erased.
  - d. The video need not be used in its entirety but may not be altered or edited and must include the copyright notice on the program as recorded.
5. A purchased videotape marked "For Home Only" may be used in the school only for "face-to-face" teaching activities as part of a systematic instructional plan.
- a. Prior to being shown to students, the video must be previewed and certified by the teacher that the contents and language are suitable and appropriate for classroom use. Certification will be in writing on a District Film/Video Evaluation form and submitted to the Principal (or designee) for approval prior to classroom use.
  - b. A videotape rented from a video store and marked "For Home Use Only" may not be shown at school

Prohibited Uses:

1. A television program may not be recorded at home from either a broadcast or cable transmission and used at school. Home taping must be for home use only.

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2. Off-air recording in anticipation of teacher request unless written permission from producer in on file. (Example: National Geographic sometimes allows schools to record off-air selected programs at no cost.)
3. Using or holding an off-air recording for instruction after the 10-day use period because:
  - a. Units needing the program concepts are not taught within the 10-day use period;
  - b. An interruption or technical problems delayed its use, or
  - c. Another teacher wishes to use it, or any other assumed "legitimate" educational reason.
4. Video programs recorded off-air or purchased (unless an unconditional use is granted by the producer) may not be used for entertainment or "reward" during the school day or evening. This constitutes a public showing for which special fees must be paid.
5. Showing a video to students that has not been previewed, evaluated, and certified in writing that the program is suitable and appropriate for classroom use. The procedure to follow is specified below under Section 7.3 Certification must be kept on file by the school for as long as video is being used, plus 3 years. Note: Videos obtained from the District Video Library are approved for use without further evaluation.
6. Use of District-owned equipment for making or playing videos that are not legally acquired.

Procedure for Off-air Recording and Program Evaluation:

1. Individual teachers who desire another staff member to record a specific program shall make that request in writing in Part I of the attached form (Appendix B).
2. Unless written permission is secured from the producer to use the video beyond the 10-day limit, the person making the recording shall state in Part II of the attached form (Appendix B) the date of recording and the date the video must be returned for erasing (ten working days after recording date). If the person making the recording is other than the requester, a copy of the form should be kept on file to recall the tape for erasure.
3. Prior to showing the recording to students, the requesting teacher shall preview the program and certify in writing on Part III of the attached form (Appendix B) that the content is suitable and appropriate for classroom use. The form shall then be submitted to the school principal (or designee) for approval.
  - a. If approved, the teacher who requested or videotaped the program may show recording in its entirety or selected portions to students twice within the ten work day period. The approved form (Appendix B) shall be kept on file in the school during the period of use, plus 3 years.



- b. The videotaped program must be immediately erased after the 10-day use period. No broadcast program may be recorded more than once for the same teacher.

### **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.

#### Prohibited Uses:

Copying broadcasts on commercial radio, except for copyrighted musical selections (see Sheet and Recorded Music), 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

### **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 school 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. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.
4. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording.

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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.

### Prohibited Uses:

1. Off-air recording in anticipation of teacher requests.
2. Using the recording for instruction after the ten-day use period.
3. Holding the recording for weeks or indefinitely because:
  - a. Units needing the program concepts are not taught within the ten-day use period.
  - b. An interruption or technical problems delayed its use.
  - c. Another teacher wishes to use it, or for any other supposedly "legitimate" educational reason.
4. 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.
5. 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.

### Sheet and Recorded Music

Music is protected by copyright under the United States Copyright Law. There are various things which can be done without securing permission or without fear of infringing on copyright laws.

1. Upon the purchase of a copyrighted musical composition, orchestration or other form of published music, the following may be done:
  - a. Sell it.
  - b. Perform it in private, or in public for non-profit.
  - c. Use it for teaching in a classroom, at home or in a pupil's home. For teaching purposes symbols and instructions may be written upon it.

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- d. Provided the composition has already been recorded by others, under the authorization of the copyright owner, for the manufacture of phonograph records serving to reproduce the same mechanically, and provided further that the copyright owner is notified by registered mail (with a duplicate of the notice to the Copyright Office, Washington 25, D.C.), of the intention to make such use, similar use may be made thereof upon making monthly payments of the statutory royalty, to the copyright owner.
2. To make some other type of use which is not described above, specific permission from the copyright owner is required in each instance.
3. The following are some of the things that cannot be done without specific permission:
  - a. Reprinting, duplicating or copying the work or any part of it by any method or means.
  - b. Arranging, adapting, orchestrating, translating or making any new versions of the work or any part of it.
  - c. Photographing or reproducing the work or any part of it by any method or means, including on film or slides or by opaque projector.
  - d. Performing the work in public for profit.
  - e. Recording the work by any method or means of for any use or purpose, (other than as provided in 2.4 above), including in synchronization with motion pictures or for television, and whether on records, film or tape.
  - f. Writing of parodies upon lyrics.
4. To avoid infringement, the right to do each or any of these acts must be cleared, and the clearance of one particular right does not clear any of the other rights. All rights are separate, distinct and independent. For instance, the clearance for broadcast does not carry with it the right to copy, or to arrange, or to record; clearance of the right to record does not carry with it the right to perform.
5. If the performance is to be in a theater or over a radio or television station, in all likelihood the theater, radio or television station will have a license to perform the musical composition publicly for profit. However, it is the performer's obligation to make certain of this and to secure a license if there is none.
6. If the performance is to take place elsewhere, there is less likelihood that the establishment has a license to perform publicly for profit and in such event a license must be secured. There are three important performing rights societies which license the great majority of copyrighted works: American Society of Composers, Authors and Publishers (usually referred to as "ASCAP"), 575 Madison Avenue, New York 22, New York; Broadcast Music, Inc. (usually referred to as "BMI"), 589 Fifth Avenue, New York 17, New York, and SESAC, INC, 10 Columbus Circle, New York 19, New York.

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7. To present a musical play or other dramatic work or a musical composition from a musical play, with costumes and/or dialogue on the stage at school, church or elsewhere, whether for profit or non-profit, permission must be secured from the owner of the work or his agent.
8. If "Copyright" or the distinctive c is printed on a piece of music, it is the notice that protects the copyright owner of the work and authorizes him to exclusively exercise and enforce all rights secured to him under the United States Copyright Law, and at the same time it is the notice that informs everyone, unless authorized, that they are subject to liability under such law.
9. A printed copy of a musical composition published in the United States, bearing no copyright notice, indicates that the composition is in the public domain in the United States and may be used freely. However, if an arrangement, adaptation or other version of such a work has been copyrighted, utmost caution must be exercised in treating the same as any other copyrighted work. A work in the public domain reprinted in a compilation is not protected, even though the compilation itself is copyrighted, unless the reprint is a copyrightable or copyrighted arrangement, adaptation or other version thereof.
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12. This guide may be reprinted in its entirety without permission, provided the above copyright notice and this notice appear in each reprint.
13. Permission to reprint excerpts from this guide must be secured from the copyright owners.
  - a. Music recordings are regarded as an instructional aid and in this regard fall into the same category as books, films and pictures.
  - b. Music recordings as an instructional aid during school time should help to strengthen, uplift and build the total personality of the students as well as to educate him musically.
  - c. Music recordings may be used when brought to the class by a student if the recording meets the standards of an instructional aid and fits into the particular teaching plan.

Permitted Uses:

1. Emergency copies for an imminent performance are permitted, provided they are replacing purchased copies and replacement is planned.
2. Multiple copies (one per student) of excerpts not constituting an entire performable unit or more than ten percent of the total work may be made for academic purposes other than performances.
3. Purchased sheet music may be edited or simplified provided the character of the work is not distorted or lyrics added or altered.
4. A single copy of a recorded performance by students may be retained by the District or individual teacher for evaluation or rehearsal purposes.
5. A single copy of recordings of copyrighted music owned by the District or individual teacher may be made and retained for the purpose of constructing exercises or examinations.
6. A single copy of an excerpt that constitutes an entire performable unit (i.e., a movement or aria) may be made, 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. A single copy of a portion of a sound recording may be made by or for a student, i.e., 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:

1. Copying to replace or substitute for anthologies or collections.
2. Copying from works intended to be "consumable."
3. Copying for purposes of performance except as noted in an emergency.
4. Copying to substitute for purchase of music.
5. Copying without inclusion of copyright notice on the copy.
6. Duplication of tapes, unless reproduction rights were given at time of purchase.
7. Reproduction of musical works or conversion to another format, e.g. record to tape.