

CVUSD Board Policy

BP 6162.6

Instruction

Use of Copyrighted Materials

Note: 17 USC 106 grants a copyright owner the exclusive rights to reproduce, distribute, make derivative works of, publicly perform, or publicly display the copyrighted work or to authorize others to do so. The district should be aware that materials subject to copyright protection need not be registered with the U.S. Copyright Office to be subject to federal intellectual property protection.

Note: However, pursuant to 17 USC 107, "fair use" (i.e., the reproduction of limited portions of copyrighted materials without the copyright owner's permission) is allowed for such purposes as criticism, comment, news reporting, teaching, scholarship, or research. Factors to be included in determining whether a particular use constitutes "fair use" include: (1) the purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work. In *Campbell v. Acuff-Rose Music, Inc.* and *Cambridge University Press et al. v. Becker et al.*, the courts reaffirmed that the four factors must be weighed together, not in isolation, on a case-by-case basis and that 17 USC 107 does not exclude consideration of other factors.

Note: Other exceptions exist for schools, including library reproduction and archiving (17 USC 108); first sale (17 USC 109); and classroom performance, display, and distance education (17 USC 110). In addition, materials that are in the "public domain" (i.e., materials that are ineligible for copyright or have an expired copyright) may be freely used. Determination of whether a material is in the public domain depends on the date of the original copyright and other factors; see the U.S. Copyright Office web site and University of California Copyright Education web site.

The Governing Board recognizes that district staff and students may use a variety of copyrighted materials in the educational program and other district operations. When such materials have not been purchased by the district for the intended use, the Board expects staff and students to respect the protections afforded by federal law to the copyright owners of those materials and respect any limitations by the copyright holder to the license of such materials.

- (cf. 1113 - District and School Web Sites)
- (cf. 1114 - District-Sponsored Social Media)
- (cf. 4040 - Employee Use of Technology)
- (cf. 4119.21/4219.21/4319.21 - Professional Standards)
- (cf. 4132/4232/4332 - Publication or Creation of Materials)

(cf. 5131.9 - Academic Honesty)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6163.1 - Library Media Centers)

When selecting appropriate supplementary instructional materials, it is each staff member's responsibility to adhere to the provisions of federal copyright law, Board policy, and administrative regulation. The district shall not be responsible for any violation of copyright laws by its staff or students. If a staff member is uncertain as to whether reproducing or using copyrighted material complies with the law, he/she shall contact the Superintendent or designee for clarification and assistance. At no time shall it be necessary for a district employee to violate copyright laws in order to perform his/her duties.

(cf. 4040 - Employee Use of Technology)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 6161 - Equipment, Books and Materials)
(cf. 6161.11 - Supplementary Instructional Materials)

Note: Pursuant to 17 USC 102, copyright protection exists for works in the categories listed below and applies to works in "any tangible medium of expression, now known or later developed." Thus, most works available on the Internet or distributed electronically are protected by copyright, including images, text, logos, software, sounds, movie clips, email, and postings to newsgroups. Like other works, material found on the Internet may not be copied unless permission is given by the copyright holder or the use conforms to a recognized exception, such as "fair use" as described above.

Any literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, and audiovisual or motion picture, sound, architectural, or other original work shall be assumed to be a copyrighted work, regardless of whether the work appears in print, audio, video, electronic, or other fixed and tangible form.

Before reproducing a copyrighted material for instructional or other district purposes, a staff member shall determine if the material is in the public domain or if the intended use of the material meets the criteria for fair use or another exception pursuant to 17 USC 107-122. If the material is not in the public domain or no recognized exception applies, the staff member shall seek permission of the copyright holder before using the material.

The Superintendent or designee shall inform staff that inclusion of an attribution citing the author and source of a copyrighted material does not absolve the staff member from the responsibility to either obtain permission or satisfy criteria for fair use or another exception.

If a staff member is uncertain as to whether the intended use of the material meets the criteria for fair use or another exception, he/she shall take the safest course and seek permission from the copyright holder to use the material or, if it is impracticable to obtain permission, shall contact

the Superintendent or designee for clarification and assistance.

Students shall not copy or distribute copyrighted works to others. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment.

(cf. 3300 - Expenditures and Purchases)
(cf. 3312 - Contracts)
(cf. 6163.4 - Student Use of Technology)

The Superintendent or designee shall ensure that the district observes all publisher licensing agreements between vendors and the district, including monitoring the number of users permitted by an agreement. Unless the applicable licensing agreement authorizes multiple users of a single program, the district shall not make multiple copies of a computer program or software. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment.

(cf. 3312 - Contracts)
(cf. 6163.4 - Student Use of Technology)

The Superintendent or designee shall ensure that staff and students receive information and training about copyright laws and the penalties for violating such laws.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Legal Reference:

EDUCATION CODE

35182 Computer software

UNITED STATES CODE, TITLE 17

101-122 Subject matter and scope of copyright, especially:

102 Definitions

106 Copyright protection

107 Fair use

110 Limitations on exclusive rights: Exemption of certain performances and displays

504 Penalties for copyright infringement

COURT DECISIONS

Cambridge University Press et al. v. Becker et al. (N.D. Ga. 2012) 863 F.Supp.2d 1190

Campbell v. Acuff-Rose Music, Inc., (1994) 510 U.S. 569

Marcus v. Rowley, (9th Cir., 1982) 695 F.2d 1171

Management Resources:

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Copyright Law: Do Schools Need a License to Show a Movie?, School Law Review, July 2010

U.S. COPYRIGHT OFFICE PUBLICATIONS

Circular 21: Reproduction of Copyrighted Works by Educators and Librarians, ~~1995~~ rev. 2009

Circular 22: How to Investigate the Copyright Status of a Work, rev. 2013

Circular 23: The Copyright Card Catalog and the Online Files of the Copyright Office, rev. 2012

WEB SITES

Copyright Society of the USA: <http://www.csusa.org>

National School Boards Association: <http://www.nsba.org>

University of California, Copyright Education:

<http://copyright.universityofcalifornia.edu/usingcopyrightedworks.html>

U.S. Copyright Office: <http://www.copyright.gov>

CSBA: (6/88) 7/08

CVUSD Global Adoption: August 19, 2008 (5/14)