

### *Instructional Use of Copyrighted Materials*

All Catholic Schools of the Archdiocese of St. Louis should adhere to the current copyright laws governing printed material, videotape, computer software, music, multi-media presentations, and Internet web sites and resources. No unauthorized copies of copyrighted materials in any form should be made or used on equipment owned by or borrowed or leased from a school. No school staff, students, or others should use any form of unauthorized copies of copyright materials for any purpose within the school's instruction or programs. "Fair use" of copyrighted materials is allowed for specific instructional purposes and only then within the limits of the "fair use" limitations.

The limited use of copyrighted material by educators and schools is allowed under federal law (D.S.C. Title 17 Chapter 1 § 107) without obtaining prior permission from the copyright owner. This limited use known as "fair use" is not considered an infringement of copyright. It allows educators to use copyrighted work for purposes of teaching (including multiple copies for classroom use) and research.

In determining whether the use made of a copyrighted work in any particular case is a "fair use" the following factors should be considered:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit 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;
4. the effect of the use upon the potential market for or value of the copyrighted work.

Whenever using copyrighted material of any nature, students and teachers should credit the sources and include the copyright ownership information that is shown in the original work.

Students and teachers should be made aware of the seriousness of the ethical and legal issues relating to unauthorized copying and software piracy. Individuals or schools that knowingly violate copyright laws are liable to prosecution and fines up to \$150,000.00. Insurance protection of the Archdiocese of St. Louis will not be extended to staff, students, and others who violate copyright laws.

#### **PRINT MATERIAL**

Schools may use photocopies of print materials only under the following "fair use" guidelines:

1. single copies of print material may be made for research or use in teaching or preparation for teaching, however, single copies of copyrighted music may not be made;
2. copying may not be done to substitute for the purchase of books;
3. no copying of consumable workbooks, standardized tests, answer sheets, etc. is permitted;
4. copying may not be done at the direction of an administrator or supervisor;
5. multiple copies may be made for classroom instruction, provided no more than one copy per student in class be made and the limitations of "brevity, spontaneity, and cumulative effect" are met;
6. copying may not create, replace or substitute for anthologies, compilations or collective works;
7. no charge may be made to students for any copies beyond the cost of photocopying.

Brevity: For the purposes of "fair use", brevity is defined as follows:

1. copies may be made of a complete story, article or essay of less than 2500 words;
2. excerpts of books or articles may not be longer than 1000 words or 10% of the complete work, whichever is less;
3. copies of poems may not exceed 250 words;
4. copies of no more than three poems by one author or five poems by different authors from any anthology may be used;

5. copies may be made of only one chart, graph, diagram, drawing, cartoon, or picture per book or article.

Spontaneity: For the purposes of “fair use”, spontaneity is defined as follows:

1. copying is at the instance and inspiration of an individual teacher;
2. there is insufficient time to request permission to copy.

Cumulative Effect: For the purposes of “fair use”, cumulative effect is defined as follows:

1. the same copied material may only be used in one course in the school and shall not be used from term to term;
2. a teacher may not copy more than two items from the same author or three from the same collective work;
3. a teacher may not use copied material more than nine times per class term.

It is advisable to post notices on copiers and printers such as: **MOST MATERIALS ARE PROTECTED BY COPYRIGHT AND UNAUTHORIZED COPYING IS PROHIBITED BY LAW AND SCHOOL POLICY.**

## **VIDEOTAPES**

The Copyright Revision Act of 1976 protects audiovisual works such as films and video programs in various formats. The rights of copyright include the rights of reproduction, adaptation, distribution, public performance, and display. All of these rights are subject to “fair use” provisions of the law.

Some video recordings purchased for educational purposes do convey certain use privileges, subject to the license agreement communicated at the time of purchase.

Guidelines are necessary to define how films, videotapes, and DVDs can be used. While a school may purchase or rent films, videotapes, or DVDs, ownership or possession of these items does not convey the rights of copyright for the material they contain.

In-classroom performance of a copyrighted film, videotape, or DVD is permissible under the following conditions:

1. the performance is by an instructor, guest speaker, or student;
2. the performance is in connection with face-to-face instructional activities;
3. the entire audience is involved in the instructional activity;
4. the entire audience is in the same classroom or general instructional area (gym, auditorium, library, etc.);
5. the videotape is lawfully made.

The performance of a film, videotape, or DVD as entertainment or as part of a cultural program, whether a fee is charged or not, is considered a public performance and constitutes infringement of copyright.

Public performances of a copyrighted film, videotape, or DVD is permissible when:

1. a school obtains a performance license from the copyright owner;
2. a school, which allows a group to use or rent space, requires the group to secure all necessary performance licenses and indemnifies the school for any failure on their part to do so.

It is advisable to post notices on video or digital recording or copying devices such as: **MOST VIDEO MATERIALS ARE PROTECTED BY COPYRIGHT AND UNAUTHORIZED COPYING IS PROHIBITED BY LAW AND SCHOOL POLICY.**

## **TELEVISION OFF-AIR VIDEO RECORDINGS**

Off-air recordings of “broadcast programs” may be used by teachers for instructional purposes with certain limitations. (“Broadcast programs” are transmitted by television stations to the general public

without charge.) The limitations on off-air broadcast programs are as follows:

1. the program may be recorded and kept for no more than 45 calendar days;
2. an off-air recording may be used by an individual teacher 1 time for instruction and 1 time for review during the first 10 school days after recording, and then may be used only for evaluation during the remaining 45-day period;
3. all off-air recordings must contain the copyright notice;
4. a school or teacher cannot record recurring programs unless a specific educational purpose is identified for each one;
5. audio or video off-the-air taping taken from public broadcasting entity transmissions of published non-dramatic musical works and certain works by governmental and other nonprofit bodies for use in classroom teaching activities is permitted provided the tapes are destroyed within 7 days after the initial broadcast.

Some off-air recordings are not of “broadcast programs”, but are commercial programs available through cable television networks. Some designated programs may be taped off-air and retained and used by teachers for an extended period of time ranging from one year to perpetuity. Some commercial-free video programs grant educators taping rights that exceed “fair use” limitations. Each cable network has its own set of guidelines for educational “fair use” taping rights. The cable television industry maintains this information through the “Cable in the Classroom” website (<http://www.ciconline.org>).

## **COMPUTER SOFTWARE**

Copyright law allows for the making of a back-up copy of computer software provided that:

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

Legal copies of copyrighted software should be protected to prevent the making of unauthorized additional copies. A school should not accept software unless its possession and use complies with the original license agreement. Nor should a school accept copies of software unless the copies conform to copyright laws.

## **MUSIC**

In addition to the guidelines for print and audio-visual materials, copying words and/or music for liturgical celebrations or for performances by school choirs, bands, etc. is prohibited.

Schools and parishes should budget sufficient funds for the purpose of purchasing copyrighted music or securing copyright permission.

## **EDUCATIONAL MULTI-MEDIA PROJECTS**

Educational multi-media projects created by teachers using copyrighted text, music or music lyrics, video or motion media, illustrations, photographs, or numerical databases may be used only under the following “fair use” guidelines.

**TIME LIMITATIONS:** Educators may use educational multi-media projects for educational purposes for up to two years after the first instructional use with a class. After that time, permission is required for each copyrighted portion incorporated into the production.

**PORTION LIMITATIONS:** The “fair use” guidelines limit the amount of copyrighted material as follows:

1. motion media - up to 10% or 3 minutes, whichever is less;
2. text material- up to 10% or 1000 words, whichever is less;
3. poems - up to 250 words, but no more than three excerpts, and no more than three poems from one author or five poems from different authors;

4. music, lyrics, and music video - up to 10%, but no more than 30 seconds from an individual work;
5. illustrations and photographs - no more than five images from a single artist or photographer, or no more than 10% or 15 images, whichever is less, from a published collection;
6. numerical databases - up to 10% or 2500 fields or cell entries, whichever is less, from a single copyrighted database.

**COPYING AND DISTRIBUTION:** There may be no more than two use copies of an educator's educational multi-media project. An additional copy maybe made for archival purposes, but used only to replace a copy that had been lost or destroyed.

## **INTERNET RESOURCES AND WEB SITES**

At present, no specific "fair use" guidelines have been developed for "fair use" by teachers of information and materials available through the Internet and on websites. In the absence of specific guidelines, teachers need to rely on the general copyright principles and exercise prudent judgment when applying them to digital applications. In doing so, consider the following general copyright principles:

1. Works are protected regardless of the medium in which they are created or reproduced.
2. Copyright extends to both digital works and works transformed into a digital format.
3. The copyright protections also govern use of text, graphics, sound, and video on the Web.
4. Copyright protects the content, arrangement, graphics, and selection of links on a Web site.
5. Anything and everything on a posted Web page could potentially be copyright protected.
6. The decision to post material on the Web and to give others unrestricted access does not mean that it is not copyright protected material.
7. The lack of a copyright notice on a Web page does not mean that is it not copyright protected material.

Apply the following principles of "fair use" when considering an educational use of material found on a Web page.

1. Copyrighted material on the Web is subject to fair use and other limitations.
2. Copyright concepts that apply to print media are also applicable to works found on the Web.
3. Use of limited portions of Web material (printing, downloading, or communicating electronic information) without obtaining permission from the copyright owner *may* be allowable for nonprofit educational purposes.
4. Assume that copyright protects almost all works on the Web.
5. Use of fact-based works is more likely to be "fair use" than excerpts from artistic or creative works.
6. The shorter the excerpt the more likely it will be considered "fair use".
7. Use only the amount of the work that serves the specific educational goals.
8. Always credit the source of information with proper attribution.
9. Determine if the author provided explicit guidelines for using the work (text, video, audio, or graphic) and follow them.
10. When in doubt, request permission from the copyright owner and keep a copy of the request and the permission received. Realize that the individual or company posting the Web page may or may not be the copyright owner for all of the material displayed.

It is advisable to post notices on computers or other devices connected to the Internet such as: **MOST MATERIALS ARE PROTECTED BY COPYRIGHT AND UNAUTHORIZED COPYING IS PROHIBITED BY LAW AND SCHOOL POLICY.**