



August 2017

ADMINISTRATIVE MEMORANDUM NUMBER FORTY-EIGHT

COPYRIGHT RESTRICTIONS AND WORKS FOR HIRE

The Granite School District is committed to observance of federal copyright laws. The District also recognizes the hard work educators put in to preparing original works for use in the classroom and elsewhere. The District wants to encourage an atmosphere of collegiality where best practices and content is shared freely at the same time allowing employees to benefit from hard work, creativity, and ingenuity.

1. The Office of Instructional Services shall advise District personnel of the obligations and restrictions of copyright laws. District employees are, however, individually responsible for understanding legal obligations and restrictions with respect to copyright laws and to act accordingly. Employees in violation of Federal Copyright Laws and District policies will be held responsible and will be subject to discipline.
2. District employees are responsible to seek permission and to provide appropriate attribution when using copyrighted materials. (See attachment #1, Utah State Office of Education Guidelines, for School Use of Copyrighted Materials.)
3. Original works written, composed, and produced by District employees as part of an assigned task while under employment, shall be considered “work for hire” under 17 U.S.C. 201 and must be credited to Granite School District Board of Education. Otherwise stated, all lesson plans, assignments, assessments, literary works, musical works, or any other work prepared for or created incident to an employee’s job duties belong to the District.
4. Employees shall not use contract time or District equipment or resources for personal use or for creating original works not intended to be utilized in performing an employee’s job duties.
5. Work for hire, as described above, shall be made available to other District employees free of charge as part of District-wide collaboration. Otherwise, District employees may request permission to sell, barter, or otherwise distribute work product outside the District that is work for hire, or that could potentially be considered work for hire, from an Assistant Superintendent or from the Compliance Officer. Permission may be granted by the District considering the level of independent thinking and effort of the employee in creating the work product, the circumstances under which the work product was created,

the benefit or harm incurred by the District if permission is granted or denied, and the good faith efforts of the employee(s) in seeking District permission.

/s/

Martin W. Bates
Superintendent

Attachments

GUIDELINES FOR SCHOOL USE OF COPYRIGHTED MATERIALS

Please note the following information which has been received from the Office of the State Superintendent of Public Instruction.

After many years of work on the part of thousands of individuals and hundreds of organizations, a new law became effective January 1, 1978, and will directly affect every educator and student in the country.

The following guidelines are based on the new law regarding the fair use of copyrighted materials. Keep in mind that the guidelines are not legal opinions. The law has many complex and untested areas in it. The courts will have to decide the final interpretation on these points. However, the guidelines are the product of a study by a committee established by the State Education Agency of the law and the best legal opinions available at this time. We believe they can serve as guides until legal action more clearly determines the provisions of the law. They do not cover all of the law, but rather select areas dealing closely with educational use.

It is recommended that a sign similar to the following be placed over each copying machine to protect media coordinators and school administrators from any infringement liability.

Making a copy without proper clearance may invoke the copyright law [Section 108 (f) (1) (2)] with subsequent penalties.

Without specific written permission of the copyright owner or broadcast station, an educator or student should comply with the following:

PERMISSIBLE

I. Print Media:

- A. Make a single copy for use in teaching or learning of:
 - 1. A chapter from a book.
 - 2. An article from a newspaper or periodical.
 - 3. A short story, essay, or poem.
 - 4. A chart, graph, diagram, drawing, cartoon, or picture.
- B. Make multiple copies (one to a student) for classroom use only of:
 - 1. A complete poem of less than 250 words.
 - 2. An excerpt of not more than 250 words from a longer poem.
 - 3. A complete article, story, or essay, if less than 2500 words and not a "special work."
 - 4. An excerpt of not more than two pages but not more than 10% of a "special work." A special work is defined as works less than 2500 words in the form of poetry, prose or poetic prose with accompanying illustrations intended primarily for children.

NOT PERMISSIBLE

- A. Copy "consumable works" such as workbooks.
- B. Make multiple copies:
 - 1. For another teacher in the same school.
 - 2. Of work from the same author more than once each term.
 - 3. From the same collection or issue more than three times each term.
 - 4. As a substitute for an anthology.
 - 5. Of works intended to be consumed during the course of study, such as workbooks, standardized tests, test booklets, and answer sheets.

PERMISSIBLE

II. Non-Print Media:

- A. Prepare an audio report on a new travel book in the school media center and use a copyrighted musical composition as background music.
- B. Use an opaque projector to enlarge a map from a text or library book.
- C. Use a film chain device to transmit a motion picture to classrooms within the building, provided both the transmitting and receiving equipment are in the same building.
- D. Make an overhead transparency of one page of a workbook or a text in order to demonstrate to the students how to proceed with an assignment.
- E. Use a currently popular song as background music for a slide program produced as a class project.
- F. Record a single copy of musical performances by students for evaluation or rehearsal purposes. (May be retained.)

NOT PERMISSIBLE

- A. Make a videocassette copy of a 16mm educational film even though the school district has purchased the film.
- B. Salvage useful frames from a discarded filmstrip to use for personal purposes.
- C. Videotape a preview print of a 16mm educational film.
- D. Use a film chain to transmit a 16mm educational film in every school in the district or between different buildings on the same campus.
- E. Make multiple cassette copies of classical music albums in their entirety even if the albums are not available in cassette form.
- F. Copy various musical selections from radio or recorded programs onto audio tape in order to illustrate the forms of

certain kinds of musical composition.

- G. Make a single copy of a sound recording (tape, disc, or cassette) of copyrighted music from those owned by the individual teacher or the district for the purpose of constructing aural exercises or examinations. (May be retained.)
 - G. Tape the audio portion of a televised documentary for later playback.
 - H. Make a copy of audio records on tapes to use as masters if the circulation copies are damaged.
- III. Computer programs (software):

Definition (as amended to Section 101 of Title 17 USC): "A `computer program' is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result."

EDUCATIONAL USER PROVISIONS

PERMISSIBLE

NOT PERMISSIBLE

- A. Section 117 of Title 17 USC allows the educational user to make a back-up copy of legally obtained computer programs. This revision of the law states "...it is not an infringement for the owner of a copy of a computer program to make or authorize the making of another copy or adaptation of the computer program provided:
 - 1. that such a copy or adaptation is created as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner, or
 - 2. that such 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 program should cease to be rightful."
- IV. Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes

General Emphasis:

- A. The federal off-air recording guidelines permit 10-day through 45-day retention rights for channels 2, 4, 5, 7, 11 and 13 with the following directions:
- B. Channel 7 (KUED); 9:00 a.m. through 3:30 p.m., Mondays through Fridays. This programming is identified in the latest UNIT "Instructional Television Course and Schedule" guide. The time length for program retention is noted in the front of the UNIT guide. These retention rights apply to Utah schools and districts only.
- C. Contracted and special permissions programming may be retained for 30 days and then erasure is mandatory.
 - 1. CBS Television Network news broadcasts
 - 2. CBS coverage of political conventions
 - 3. CBS news conference.
 - 4. CBS coverage of governmental hearings and unusual news happenings which occur at unscheduled times
 - 5. Local newscasts from Channel 5; these may be retained for 7 days and then erasure is mandatory
- D. Television programs purchased from commercial sources (Sec. 110.1, Title 17 USC):
 - 1. Educational television programs procured through direct purchase, rental or lease from commercial outlets may be used in the non-profit educational institution as long as they are a part of "face-to-face" teaching activities. The use must be part of the instructional program and cannot be shown for recreation or entertainment purposes. Section 110.1 of the Copyright Revision Act exempts the classroom use of a lawfully manufactured and obtained copy of a motion picture from the public performance rights reserved to the copyright holder.

2. The label on leased, rented, or purchased videocassette programming which reads "FOR HOME USE ONLY" does not limit the legal permitted use rights of the educational user.
3. With respect to where a motion picture or videocassette may be shown, the term "classroom or similar place" is defined on page 82 of House Hearing Report 94-1476 to mean a place which is devoted to instruction and would include a studio, a workshop, a gymnasium, a training field, a library, the stage of an auditorium, or the auditorium itself, IF actually used as a classroom FOR SYSTEMATIC INSTRUCTIONAL ACTIVITIES.
4. It should also be noted that any duplication or copying of a videocassette is not permitted. This would apply even to the making of an archival copy or transferring from one format to another.
5. In view of the above four sections (Part "D" 1-4) the following procedures will be required:
 - a. All video programming obtained from commercial sources through rental, lease or purchase must be cleared for classroom use through the principal's office (or designee) AND registered on the school's "Commercially Obtained Video Programs Log." Granite School District does not allow for the showing of "R" or "X" rated materials (videos, etc.)
 - b. Each professional staff member who elects to use commercially prepared video programming must also present the lease, rental or purchase receipt to the school principal or his/her designee in order to confirm that the video programming has been **legally acquired, is definitely relevant** to the teaching of specific curriculum and will be used only as a part of "face-to-face" teaching activities. If a staff member signs a statement from the video store affirming that he or she will not use the video outside the home, the video may not be used in the school in any case.

SUMMARY

Question: Why the restrictions on the "off-air" dubbing guidelines?

Answer: In a final court ruling as of March 10, 1983, the federal judge of the United States District court in New York declared:

" ... that any temporary videotaping and playback in classrooms of copyrighted materials readily available by rental, lease, or license duplicating agreement is infringement and is NOT fair use."

In a further statement, this federal court ruled:

"... that when such agreements are provided, fair-use guidelines for off-air videotaping of educational materials are not applicable; they do not have the force of the law."*

* United States District Court, Western District of New York. EBEC, LCA and Time-Life vs. ten named defendants of the Erie County BOCES. Civ-77-560. March 10, 1983

Attachment #2

WORKS PRODUCED BY GRANITE SCHOOL DISTRICT EMPLOYEES
(Works for Hire, Section 201. Title 17 USC)

- A. Discretionary grant programs administered by the Utah State Board of Education which involve the development of material for which a copyright is claimed, must be credited* to the Utah State Board of Education, with the Utah State Board of Education, or Granite School District, or the Author being the sole copyright registrant. The organization or individual to be the sole copyright registrant will be determined during the time project negotiations occur. Because the State Board of Education is the funding source for discretionary grants, materials developed would be considered under the "Works for Hire" provision of the copyright law (Section 201. Title 17 USC). The condition of copyright registration being allowed to other than the Utah State Board of Education would be that the material could be used in any education agency in the State of Utah (those agencies under the direction of the Utah State Board of Education) at cost if provided by the developmental agency or they could be duplicated for use within any local education agency by the local agency. Beyond the named condition, the copyright registrant would reserve exclusive rights for displaying, performing, printing, reproducing and sales of the copyrighted material.
- B. All original works written, composed and produced by Granite School District employees as part of an assigned task while under employment, shall be considered under the "Works for Hire" provision of the copyright law (Section 201. Title 17 USC) and must be credited** to Granite School District Board of Education, with the Granite School District Board of Education or the author(s) to be the sole copyright registrant. The condition of copyright registration being allowed to other than the Granite School District Board of Education would be that the material could be duplicated for use in any school in Granite School District. Beyond the named condition, the copyright registrant would reserve exclusive rights for displaying, performing, printing, reproducing and sales of the copyrighted material.
1. Administrative Approval: All original materials produced by any of the personnel of the various divisions of the Granite School District which are to be considered for submission for copyright registration **with the Granite School District Board of Education as the sole copyright registrant** will first be submitted to the administration. Upon administrative approval, the Assistant Superintendent, Office of Instructional Services, will initiate copyright registration procedures.
 2. Original Materials: Original materials are defined as those which have been independently developed, written or otherwise produced, which have not previously been published nor produced in any format by any other person, agency or entity.
 3. Use of Other Copyrighted Materials in Granite District Productions: No section nor sub-sections of previously copyrighted works (by other authors, producers, publishers, etc.) may be used in composite with Granite District copyrightable works without proper written clearances and permission(s) declarations (Section 118, (f), (g), Title 17 USC).
 4. Duration of Copyright (Section 302, (c), Title 17 USC): In all works made for hire in the Granite School District, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever comes first.
 5. Duration of Copyright -- Works created but not published or copyrighted before January 1, 1978. (Section 303, Title 17 USC): Copyright in a work created before January 1, 1978 but not given over to public domain nor copyrighted, shall from January 1, 1978 subsist as copyrighted and shall endure for the term provided in Section 302 of the new law. In no case shall the term of copyright in such a work expire before December 31, 2002, and, if the work is published on or before December 31, 2002, the term of copyright protection shall not expire before December 31, 2027.
 6. Duration of Copyright -- Subsisting Copyrights: Any works made for hire by the Granite School District prior to January 1, 1978 shall be considered as the property of the Granite School District with no attachments.

Such works shall be considered as subsisting in copyright and this copyright shall endure for twenty-eight years from the date the works were originally produced.

The Granite School District, as the sole proprietor of such copyright, shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one-year prior to the expiration of the original term of copyright. (Section 304. Title 17 USC).
 7. Infringement of Copyright: Any employee who violates any of the exclusive rights of the copyright owner, owner being the Granite School District, as provided by Sections 106 through 118, is an infringer of the copyright (Section 501. Title 17 USC) and will be held responsible.

Following are sample statements for credit and disclaimer for materials that are copyrighted by sole registrants other than the Utah State Board of Education or the Granite School District Board of Education.

* The development of this document (or material) was supported in whole or in part by the Utah State Board of Education. However, the opinions expressed herein or the accuracy of the information do not necessarily reflect the positions or policy of the Utah State Board of Education and no official endorsement by that board should be inferred.

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