ORGANIZATION, PHILOSOPHY, AND GOALS

Philosophy and Goals

Reproduction and Use of Copyrighted Materials

This regulation supersedes Regulation 1425.1.

I. PURPOSE

To provide guidelines for the use of information that is used for educational purposes. This includes, but is not limited to, the reproduction and use of copyrighted materials such as: print, print music and sound recordings, off-air video recordings, prerecorded video programs, use of digital media from digital media sites and other digital resources.

II. SUMMARY OF CHANGES SINCE LAST PUBLICATION

A. Section III. expands information on copyright principles and requirements for seeking permission from copyright holders.

B. Section IV. adds information on photocopying of copyrighted materials.

C. Sections V.A.3. and V.A.4. add information on the process for requesting copyright consultation and on retention of requests for copyright permission.

D. Section V.D.4. adds a requirement for housing and maintaining copyright permissions.

III. COPYRIGHT PRINCIPLES

Teachers, staff and students should assume that all works that involve original expression, regardless of their form (text, art, etc.), are protected by Copyright law, unless otherwise noted. Consequently, they should not reproduce, modify, distribute, perform or display the works of others unless such use is with the copyright owner’s permission or within the scope of these guidelines. Copyrighted works may include, but are not limited to literature, art, print, music and other sound recordings, dramatic works, graphics, video and motion pictures, and media productions.

A. Responsibilities of Teachers

Teachers may use copyrighted materials without first seeking permission of the copyright holder if the proposed use falls within one of the following categories:

1. Face-to-face instruction—Copyright law permits the performance or display of a copyrighted work in the classroom as part of face-to-face instruction, as long as the work being performed or displayed was lawfully acquired. This provision allows the teacher to use and display a wide range of materials, such as print, audiovisual materials, and works of art. It does not allow reproduction of
multiple copies to students or electronic posting of materials outside the classroom, unless such distribution meets the criteria of Fair Use, described below in section IV.

2. Distance learning—The Mediated Instructional Activities exception allows the teacher of a distance learning class essentially the same flexibility to use copyrighted materials as the classroom teacher has under the Face-to-Face instruction provision. This provision applies only to a class taught completely in a distance learning setting, however, not to classes that are taught face to face with some elements of electronic instruction. This means that this provision is of limited use to most classroom teachers. Consult with the Instructional Services Department, Online Campus Learning Office, if you believe that you qualify as a distance learning instructor entitled to use this exception.

3. Works in the public domain.

4. Fair Use—The Fair Use doctrine allows teachers to make limited use of copyrighted materials without advance permission if the teacher can show that the proposed use satisfies the fair use criteria, described in more detail below.

Educators should be aware that the availability of the materials on the Internet does not necessarily mean they qualify for downloading and use in the classroom. If the educator’s proposed use does not fall within one of the above categories, then he or she should seek permission of the copyright holder before using the material.

IV. FAIR USE PRINCIPLES

Federal law provides a “fair use” exception which allows limited use of copyrighted materials by educators. This exception permits teachers, librarians, researchers, scholars, writers, and others to use copyrighted works without asking for permission and without compensating the copyright owner.

This exception allows the fair use of a copyrighted work, including reproduction for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, and such use will not infringe the copyright. In determining whether the use made of a work in any particular case is a fair use, the factors to be considered shall include:

A. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes.

B. The nature of the copyrighted work.

C. The amount and substantiality of the portion used in relation to the copyrighted work as a whole.

D. The effect of the use upon the potential market for, or value of, the copyrighted work.

The Copyright Office has provided specific guidance regarding the applicability of Fair Use principles to photocopying. The guidance allows teachers to make photocopies for
use in instruction, pursuant to certain limitations regarding number, frequency and timing.

V. RESPONSIBILITIES OF STAFF MEMBERS AND DEPARTMENTS

A. Responsibilities of Teachers and Other Users

Teachers, librarians, and other users of copyrighted materials are responsible for the following:

1. Review and compliance with this regulation.

2. Use and copying of copyrighted materials only with permission, except as allowed under fair use.

3. Consultation with principals, cluster offices, central offices, and the Department of Information Technology (IT) for guidance in situations in which it is unclear whether a proposed use falls within a statutory exception, a license (or other permission), or constitutes fair local school use. Request Copyright/Fair Use assistance through the IT Service Catalog at http://fcpsrequestit.fcps.edu:8091/kinetic/DisplayPage?srv=KS3f764280faf7199dc890509a2f622df262&bc=3. This link is available only through computers within the internal FCPS network (FCPSnet).

4. A copy of any request for permission should be kept on file in a central location at the local school or department, and an electronic copy should be sent to the FCPS Copyright Permissions Repository through the IT Service Catalog at http://fcpsrequestit.fcps.edu:8091/kinetic/DisplayPage?srv=KSaf12ff4367a49c2daf6300fe4d6ea01deb&bc=3. This link is available only through computers within the internal FCPS network (FCPSnet).

B. Local School Responsibility

The principal of each school is responsible for the following:

1. Provision of information to educational staff members and students regarding the legal, ethical, and practical problems caused by copyright infringement.

2. Establishment of practices for enforcing this regulation at the local school level.

C. Cluster Office and Department Responsibility

The cluster and department assistant superintendents, or their designees, are responsible for the following:

1. Provision of information to cluster offices, department staff members, and principals regarding the legal, ethical, and practical problems caused by copyright infringement.

2. Establishment of practices for enforcing regulations throughout the clusters and departments.
D. Department of Information Technology

In conjunction with staff members from the Instructional Services Department, IT staff members shall be responsible for the following:

1. Monitoring of the literature and professional practice in regard to fair use by educators, and the updating of this regulation and these guidelines as necessary.

2. Provision of technical assistance and training to teachers and other staff members, principals, and cluster officers regarding interpretation of fair use principles.

3. Assistance in the negotiation of licenses and other agreements for use of works owned by others and interpretation of such documents for staff members using the copyrighted works.

4. Housing and maintaining a repository of copyright permissions.

VI. NONCOMPLIANCE

Violation of copyright law or FCPS guidance regarding copyright may result in discipline up to and including termination. In addition, the legal or insurance protection of Fairfax County Public Schools will not be extended to employees who knowingly violate copyright laws.