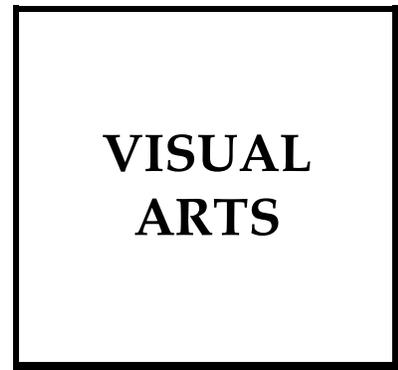
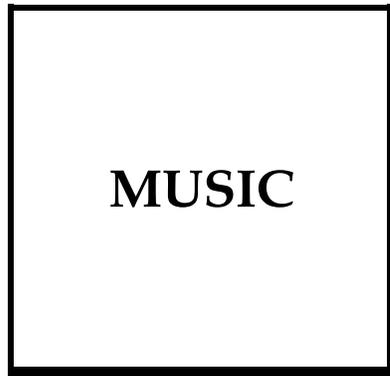


Arts Education K-12:

Copyright for Arts Educators

Monograph No. 5 2006 Arts Education Series



Public Schools of North Carolina

State Board of Education

Department of Public Instruction

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Foreword

As professionals, arts education teachers must model ethical use both when working with students and when preparing materials for classroom use.

This document provides arts educators with guiding principles for managing a classroom where they both model and teach appropriate, ethical behavior, in adherence to copyright policy, legislation, and the *NC Standard Course of Study*.

Code of Professional Practice and Conduct for North Carolina Educators

The purpose and applicability of .0601 *Code of Professional Practice and Conduct for North Carolina Educators* is to “establish and uphold uniform standards of professional conduct for licensed professional educators throughout the State. These rules shall be binding on every person licensed by the State Board of Education, hereinafter referred to as "educator" or "professional educator," and the possible consequences of any willful breach shall include license suspension or revocation. The prohibition of certain conduct in these rules shall not be interpreted as approval of conduct not specifically cited.”

The Code of Professional Practice and Conduct for NC Educators specifically addresses the personal conduct and behavior of teachers:

Generally recognized professional standards. The educator shall practice the professional standards of federal, state, and local governing bodies.

Personal conduct. The educator shall serve as a positive role model for students, parents, and the community. Because the educator is entrusted with the care and education of small children and adolescents, the educator shall demonstrate a high standard of personal character and conduct.

Honesty. The educator shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of professional duties.

Compliance with criminal laws. The educator shall not commit any act referred to in G.S. 115C-332 and any felony under the laws of the United States or of any state.

History Note: Authority G.S. 115C-295.3; Eff. April 1, 1998.

This code of conduct clearly reinforces and demonstrates the important role of educators as models of ethical and appropriate behavior for the students they teach.

Computer/ Technology Skills

In the *Computer/Technology Skills North Carolina Standard Course of Study and Grade Level Competencies, K-12*, Competency Goal 1 specifically requires students to “exhibit ethical behavior in the use of computer and other technologies” (C/T Skills NCSCS, 2004, p.10). ”

Specific foci at various grade levels specify that students should:

- Be aware of copyright and fair use guidelines;
- Demonstrate responsible and safe use of online resources;
- Conduct online research and evaluate information found;
- Create projects in all subject areas and cite sources.

This is important information for all teachers, K-12, because the *Standard Course of Study* states, “To become technologically proficient, the student must develop the skills over time, through integrated activities in *all content areas* K-12, rather than through one specific course. These skills are necessary for all students and *should be introduced and refined collaboratively by all K-12 teachers as an integral part of the learning process.*” (C/T Skills NCSCS, 2004, p. 8)

Information Skills

The *Information Skills North Carolina Standard Course of Study and Grade level Competencies, K-12*, likewise requires that students become familiar with the use and care of information resources. It identifies the essential knowledge and skills that prepare students to “locate, analyze, evaluate, interpret, and communicate information and ideas in an information-rich society.” (Computer Skills SCS, 2004) Specific foci which have implications for copyright in relationship to arts education ask students to:

- Look at original student artwork and discuss who owns the work. Identify and discuss rights of the creator;
- Discuss stories, books, encyclopedias, (*plays, artwork, videos, music*) and online resources. Make opportunities to discuss ownership and "intellectual property;"
- Follow acceptable use policy (AUP/IUP) for electronic resources;
- Discuss responsible use of resources at home and at school;
- Demonstrate the awareness that resources convey meaning and exist in a variety of formats;
- Routinely identify the value of various print, non-print, and electronic resources and discuss how each can be used to meet personal and information needs;
- Organize and use information;
- Credit sources in all print, non-print, and electronic products;
- Apply fair use copyright guidelines (Copyright Law, P. L. 94-553) in all projects.
- Produce and present findings in various formats (print, graphical, audio, video, multimedia, web-based);
- Evaluate the product;
- Use a variety of resources to meet information needs.

Information Skills are the skills that prepare students to gather, process, use, and communicate information. As we move toward a dynamic, global society, we are continuously bombarded with diverse ideas, new information, and

innovative technologies that increase the demand for students to become skilled in accessing, processing, and using information. Integrated with other curricular areas, Information Skills will enable students to become lifelong learners and informed decision-makers (Information Skills NCSCS, 2004, p. 9).

**Copyright Law
Public Law
94-553**

Copyright is about protecting creators. Whenever someone creates something new by putting pen to paper, choreographing a dance, designing a graph, or taking a photo — it is theirs from the moment of its creation forward. And the creator's rights to benefit from that work (literary, artistic, musical, dramatic, written or unwritten) — financially or otherwise — is protected by law.

Copyright law protects authors from having their works copied without their permission. (Title 17 of the United States Code; Copyright Act of 1976). When the creator of a work dies, the rights to benefit from a work passes to his/her family and continues for 70 years after the creator's death; at that point, the work enters the 'public domain.'

COPYRIGHT BASICS

The following copyright basics are adapted from the NC Department of Public Instruction Resources Development & Evaluation Instructional Technology Division (2006). The original document can be accessed at: <http://www.ncwiseowl.org/zones/professional/Conferences/Copyright.doc>.

What is Copyright?

The term copyright encompasses five fundamental rights:

- Reproduction,
- Adaptation,
- Publication,
- Performance, and
- Display

Copyright protects "original works of authorship."

Copyrightable works fall into the following categories:

- literary works (which includes computer software);
- musical works, including any accompanying words;
- dramatic works, including any accompanying music ;
- pantomimes and choreographic works;
- pictorial, graphic, and sculptural works;
- motion pictures and other audiovisual works;
- sound recordings; and
- architectural works.

What is Fair Use?

Fair use is a legal principle that defines the limitations on exclusive rights of copyright holders that applies to only non-profit educational institutions and homebound instruction.

What Conditions Must I Meet to Claim Fair Use?

The following conditions must be met to claim fair use:

- The copy is used in a non-profit educational institution or is with homebound students.
 - The copy is used in face-to-face instruction.
 - The copy is used in support of curriculum objectives.
 - The copy is legally obtained.
-

Can You Pass the Fair Use Test?

The following factors should be examined to determine whether or not fair use can be claimed:

Fair Use Factor #1

- The purpose and character of use - including whether such use is of a commercial nature or is for nonprofit educational purposes, criticism, comment, news reporting, teaching, scholarship, or research

Fair Use Factor #2

- The nature of the copyrighted work - is it intended for educational use? Nonfiction materials are easier to claim than creative works while creative works are less likely to be eligible for fair use.

Fair Use Factor #3

- The amount and substantiality of the portion used in relation to the copyrighted work as a whole - varies with original format but copying an entire work is rarely fair use

Fair Use Factor #4

- The effect of the use upon the potential market for or value of the copyrighted work
-

Photocopying Fair Use

A teacher can make a *single copy* of:

- a book chapter;
- a magazine or newspaper article;
- a picture from a book, magazine, or newspaper for scholarly research or for use in teaching or preparation.

A teacher can make *multiple copies* for classroom use of the following:

- a poem of less than 250 words; an excerpt from a larger work up to 1,000 words or 10%; whichever is less;
- a complete article, story, or essay less than 2,500 words;
- one graphic or picture per book or issue;
- combinations of prose, poetry, and illustrations up to 10% of total. The user must include the copyright notice on the item.

Exception: children's/picture books less than 2,500 words

- excerpt no more than two pages
- may not contain more than 10% of total words

Conditions:

- may not exceed one copy per pupil;
- the use is spontaneous and there is not enough time to contact copyright holder for permission.

Thou Shall Not:

- copy consumable materials such as workbooks, exercises, standardized tests, test booklets, and answer sheets;
- substitute copy for purchase;
- make new copies of the same original over and over;
- be directed by higher authority to make illegal copies.

Audiovisual Works Fair Use

Audiovisual works includes sound recordings, video and film. The arts have issues particular to each discipline regarding the use of audiovisual materials. It is recommended to address specific questions to the appropriate situation (i.e. posting student-recorded music on the internet; utilizing videos of dance works; showing an excerpt from a movie or film, etc). The resource section of this document contains links to many helpful copyright resources that will help arts educators determine appropriate use and legalities with individual situations.

Rental Of Videotapes For Classroom Use

The following apply to the fair use of videotapes for classroom use:

“Guidelines for Off-the-Air Recording of Broadcasting Programming for Educational Purposes” - adopted by Congress in 1981 applies to all use of legally obtained video recordings in classrooms

“Home Use Only” 1985 interpretation by the NC Attorney General:

- use is allowed under a specific exemption is found in Section 110 (1) of the Copyright Statue
- “performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a non-profit educational institution, in a classroom or similar place devoted to instruction...”

Suggested Guidelines

- Rent tapes in the school’s name;
 - Where rental agreements, contracts, or rental cards are used, insist that such agreement be in the school’s name;
 - Assure the rented tape will be for instruction, not entertainment or reward.
-

Commercial Television Programs - Fair Use Guidelines

Broadcast programs are defined as television programs transmitted by television stations for reception by the general public without charge. School days are defined as - school session days not counting weekends, holidays, vacations, examination periods, or other scheduled interruptions within the 45 retention days.

Broadcast programs may be:

- recorded and retained for a period of 45 calendar days from the date of recording;
- used once by individual teachers in the course of relevant teaching activities;
- used with students only during the first 10 school days;
- repeated once only during the first 10 school days when reinforcement is necessary in the classroom;

- used after the first 10 days only by a teacher for evaluation purposes;
- made only at the request of and used by individual teachers.

Important Factors:

- Broadcast programs must be erased at the conclusion of the retention period;
- Broadcast programs may not be regularly recorded in anticipation of requests;
- No program may be recorded for an individual teacher more than one time regardless of number of the times it is broadcast;
- A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under fair use guidelines (subject to same provisions as original);
- Recordings need not be used in their entirety;
- Recordings may not be altered from their original content;
- Recordings may not be physically or electronically combined or merged into teaching anthologies or compilations;
- All recordings must include the copyright notice;
- Educational institutions are expected to establish appropriate control procedures to maintain the integrity of these guidelines;
- Premium cable channels are not considered “broadcast channels” since they are not open to the general public free of charge.

Guidelines for Microcomputer Software

A 1980 amendment to 1976 Copyright Act defined computer programs. Unauthorized duplication constitutes infringement whether done for sale, free distribution, or copier’s own use. Violations will result in up to 5 years in prison and \$250,000 fine for each violation. Liability usually falls on the party owning the computer. Rental, leasing, or lending of software is illegal without permission of the copyright owner under Public Law 101-650.

Fair Use for Microcomputer Software

With 2 exceptions, making copies of software is not allowed under fair use:

- One backup may be kept for archival purposes only. This copy may not be used unless the original is destroyed. (Backup copy must be destroyed when rights to program cease).
- One copy may be created on the computer’s hard drive in order to make the program operate.

Software License

- Software is not owned, it is borrowed.
 - Read the software license for options.
-

Computer Graphics

Computer graphics include paintings, photos, diagrams, charts, line drawings, etchings.

It is permissible to:

- make a single copy for personal research.

It is permissible to make multiple copies IF:

- the test of spontaneity is met;
 - the copy is used in only one course;
 - the copying does not occur more than nine times per course;
 - no more than one graphic is used (scanned/photographed) per book.
-

What is Adaptation?

Adaptation entails changing the medium. You may NOT enlarge, modify, or convert to a different medium. School staff who allow equipment to be used for copyright infringement are considered to be “contributory infringers” and are punishable under law.

Multimedia Guidelines

Students and teachers must include on the opening screen of their programs and on any printed materials that their presentation was prepared under fair use exemption of the U.S. Copyright Law and are restricted from further use.

Educators may claim fair use for their own productions providing these productions are:

- for face-to-face curriculum-based instruction;
- demonstrations of how to create multimedia productions
- presented at conferences (but you may not share copies of the actual production);
- for remote instruction as long as the distribution signal is limited and it is kept for only 2 years.

How much text may I use in a multimedia presentation?

- up to 10% of a copyrighted work or 1000 words, whichever is less;

Poems:

- entire poem if less than 250 words;
- 250 words or less if longer poem;
- no more than 5 poems (or excerpts) of different poets, from an anthology;
- only 3 poems (or excerpts) per poet.

How much motion media (video, animation) or how many photographs may I use in a multimedia presentation?

- up to 10% of a copyrighted work or 3 minutes, whichever is less;
- clip cannot be altered in any way.

How many photographs may I use in a multimedia presentation?

- a photograph or illustration may be used only in its entirety;
- no more than 5 images of an artist's or photographer's work may be used;
- when using photographs from a collection, no more than 10% or 15 images, whichever is less, may be used.

How much music may I use in a multimedia presentation?

- up to 10% of a copyrighted musical composition, but no more than 30 seconds;
- up to 10% of a body of sound recording, but no more than 30 seconds;
- any alterations cannot change the basic melody or the fundamental character of the work.

May I copy and distribute my, or my students', multimedia presentations?

- do not post multimedia projects claiming fair use exemption on an unsecured web site;
- no more than 2 copies of the original production may be made;
- only 1 may be placed on reserve for others to use for instructional purposes;

- an additional copy may be made for preservation purposes, but may be used or copied only to replace a used copy that has been lost, damaged, or stolen;
- if more than one person has created the multimedia presentation, each principle creator may retain only one copy.

Can I change a multimedia file and use it?

- only to illustrate a specific technique or to support a specific instructional objective;
- notice of any alterations must be shown within the presentation.

Do I have to cite files used in multimedia presentations?

- Educators and students must credit sources, giving full bibliographic information available and display the copyright notice;
 - Copyright information for images may be shown in a separate bibliographic section.
-

GLOSSARY

Acceptable Use Policy (AUP) Internet Use Policy (AUP/IUP)	Policies adopted by school districts to address Internet usage. Acceptable Use Policy is an agreement between the user (students and/or teachers) and the school district requiring responsible use of Internet access. Typically, agreements are signed by students' parent(s) or guardian.
Copyright	Five fundamental rights: reproduction, adaptation, publication, performance, and display.
Copyright Law	Law granting a legal right to a copyright holder which requires the permission of the copyright holder to make. A complete copy of the United States Copyright Law and further information regarding the copyright law may be obtained online at http://lcweb.loc.gov/copyright/title17/ or by writing: The Copyright Office, Library of Congress, Washington, DC 20559.
Fair Use	A legal principle that defines the limitations on exclusive rights of copyright holders that applies to only non-profit educational institutions and homebound instruction.
Formats	All formats to include print, non-print, graphical, audio, video, multimedia, and web-based. Multimedia and web-based products combine two or more of these elements in an interactive format.
Genre	A category of artistic, musical, or literary composition characterized by a particular style, form, or content.

Information Literacy	Developing strategies to access, evaluate, use, and communicate information for learning, decision making, and problem solving.
Primary Sources	Primary sources are results of experiments or original research, literary works, autobiographies, original theories, and other materials.
Resources	All types of print, non-print and electronic media.
Secondary Sources	Sources compiling or critiquing original works. Examples of secondary source include literary criticism, biographies, encyclopedia articles, and journal articles critiquing the work of others.

COPYRIGHT RESOURCES FOR ARTS EDUCATORS

General Copyright Resources

American Society of Composers, Authors, and Publishers:

<http://www.ascap.com/index.html>

A Visit to Copyright Bay: <http://www.stfrancis.edu/cid/copyrightbay/>

American Library Association Copyright Tutorial:

<http://www.ala.org/ala/washoff/WOissues/copyrightb/>

Association for Information Media and Equipment (AIME):

<http://www.aime.org/links.php>

Copyright.com: Access to copyright permission for millions of works in print and digital formats worldwide: <http://www.copyright.com/>

Copyright Basics and the Internet:

<http://server.remc12.k12.mi.us/lhslib/Copyright.htm>

Copyright Kids: <http://www.copyrightkids.org/cbasicsframes.htm>

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

Copyright Term and the Public Domain:

http://www.copyright.cornell.edu/training/Hirtle_Public_Domain.htm

Copyright Website: Includes many useful tools for copyrighting your own work or researching copyright issues - <http://www.benedict.com/>

Copyright.Com: Providing complete and convenient access to copyright permission for millions of publications worldwide -

<http://www.copyright.com/>

Cornell Law School – Code Collection – easily readable federal laws on copyright: <http://www.law.cornell.edu/uscode/html/uscode17/>

Creativity in the Classroom: A project to encourage students to label their creative work with the copyright symbol, the year, and their name. While the campaign focuses on student music compositions, it is directly applicable to all types of creative work.

<http://www.menc.org/information/copyright/creativity/contents.html>

Instructors' Guide to Internet Plagiarism: <http://www.plagiarized.com>

Internet Safety: What is Covered by the Copyright?

<http://www.wiredsafety.org/law/copyrights/covered.html>

Internet School Library Media Center, James Madison University:

<http://www.falcon.jmu.edu/~ramseyil/copy.htm>

Library of Congress: Copyright Basics and much more regarding copyright laws, processes, forms, publications, etc. <http://www.copyright.gov/>

Move Licensing USA: <http://www.movlic.com/k12/schools.html>

Patent Information – copyrights and trademarks - Click on various aspects of copyright for additional information: <http://www.patents-info.com/>

Stanford University – Copyright and Fair Use information and resources:

<http://fairuse.stanford.edu/>

Teachers Talking to Teachers: Video programs and series; Nine two-hour video sessions – Session 6 is Technology and the Law, Copyright and Selection Policies.

<http://www.ncpublicschools.org/distancelearning/starschools/teacherstalking.html>

United States Copyright Office: <http://www.copyright.gov/>

University of Texas – Crash Course in Copyright:

www.utsystem.edu/ogc/Intellectualproperty/cprtindx.htm

When Works Pass into Public Domain Web Site:

<http://www.unc.edu/~uncclng/public-d.htm>

Dance Resources

Dance Heritage Coalition: A Copyright Primer for the Dance Community - overview of copyright issues including video production:
<http://www.danceheritage.org/publications/copyright.html>

Music Resources

Copyright for Music Librarians: <http://www.lib.jmu.edu/org/mla/>

Copyright Resource Center:
http://www.mpa.org/copyright_resource_center/copying

Harry Fox Agency - The HFA licenses the largest percentage of music in the United States for CDs and digital services. The HFA's easy to use licensing system takes you step by step through the process of licensing songs for use in recording, performance, film, etc: <http://www.harryfox.com/index.jsp>

Music Publishers' Association Directory of Music Publishers:
<http://www.mpa.org/agency/pal.html>

Music Publishers' Association of the United States: Copyright Resource Center: <http://www.mpa.org/copyright/copyresc.html>

Public Domain Music – a reference site to help identify public domain songs and music: <http://www.pdinfo.com/>

United States Copyright Law: A Guide for Music Educators:
<http://www.menc.org/information/copyright/copyr.html>

Theatre Arts Resources

Copyright Laws for Theatre People - This comprehensive web document attempts to clarify the copyright law for theatre folk, most especially aspects of copyright that relate to producing play scripts - copyright laws for playwrights, directors, and sound designers:
<http://lecatr.people.wm.edu/copy.htm>

Play Publishers/Licensing Agencies:

Baker's Plays: <http://www.bakersplays.com>

Broadway Play Publishing, Inc: <http://www.broadwayplaypubl.com>

Dramatic Publishing Co: <http://www.dramaticpublishing.com>

Dramatists Play Service, Inc: <http://www.dramatists.com>

Music Theatre International: <http://www.mtishows.com>

Pioneer Drama Service: <http://www.pioneerdrama.com>

Playscripts, Inc: <http://www.playscripts.com>

Popular Play Service: <http://www.popplays.com>

R&H Theatricals (formerly The Rodgers & Hammerstein Theatre Library):
<http://www.rnhtheatricals.com>

Samuel French: <http://www.samuelyfrench.com>

Tams-Witmark Music Library: <http://www.tams-witmark.com>

Producing Theatre: A Comprehensive Legal and Business Guide by Donald C. Farber (2nd edition), Limelight Editions, New York 1997.

Who owns the rights? Copyright, the law and licensing the show.

Summer 1999 issue of Teaching Theatre quarterly, (Volume 10, Number 4)
by Kevin N. Scott <http://www.angelfire.com/or/Copyright4Producers/>

Visual Arts Resources

Note: There are no easy answers to questions regarding the use of art images. The National Art Association has no copyright guidance on their website. The copyright laws are complex and not clean and easy to understand. We have listed some of the resources we found that might be of assistance. In addition, the image of most art where the artist has been dead for more than 70 years is probably not copyrighted. However, depending on where you get the image, the image of the artwork may be copyrighted. In most cases, the site to which you go to retrieve an image will tell you whether it is copyrighted by the site creator or publisher. If so, you will have to get permission to use it for your purposes. We cannot give you a hard and fast rule regarding the use of art images, so you will have to use your own judgment. Our advice is, when in doubt, to find another image.

Many museum sites will allow you to use images for educational purposes but you should seek permission to put it on your site if it is available for public access.

Copyright in Visual Arts: <http://www.piercelaw.edu/tfield/copyVis.htm>

Copyright in Cyberspace ... in original works of art or limited edition prints (200 or fewer). <http://www.utsystem.edu/ogc/intellectualproperty/distance.htm>

Frequently Asked Questions ... a public domain artwork such as the Mona Lisa by painting ... protected under trademark laws or the laws of unfair competition, but not under copyright law: <http://www.photolaw.net/faq.html>

Trademark and Copyright in the Art Classroom ... a commercial site with some general information regarding copyright along with other articles of interest to visual arts educators: <http://www.artpoints.net/>

Sample School System Copyright Guidelines

Individual schools and school systems should be cognizant of copyright laws and implications for teachers and students. Many school systems provide guidelines and/or training to all teachers to ensure that they are grounded in copyright policies and are informed of ethical behaviors and practices. Some schools and/or systems require teachers to attend training and sign pledges that they have received the information and will adhere to the policies.

Winston-Salem/Forsyth County Schools enlisted the assistance of their attorney to draw up copyright guidelines that are provided in the visual arts education curriculum guides for use by their teachers. You may view this system's copyright guidelines by going to <http://www.wsarts.com/>, next click on "Visual Arts," look for "Curriculum Guides" at the left, click on one of the three grade spans (elementary, middle, or high). This will automatically download a pdf file. Open the file and scroll down to "Copyright Guidelines". We appreciate Winston-Salem/Forsyth County Schools for allowing us to site their guidelines as a sample for what a system can do to improve and clarify copyright rules for teachers and students.

Buncombe County Schools developed a PowerPoint slideshow of 165 slides outlining policies and procedures in relation to copyright policies. Each teacher has to view and sign a paper stating that they have viewed the slides and are aware of the policies each school year. This slideshow has been utilized in at least one other school system.

Wake County Schools has provided training modules and made these available to all of their arts education teachers. They have consulted with publishers and utilized experts to help provide resources and policies to their teachers as well as answer practical questions. Teachers are thereby informed about copyright policies and practices and are provided with resources to help implement these practices. Materials will be made available to their teachers via the school system intranet site.

Alamance-Burlington School System Copyright Guidelines (sample school system copyright guidelines):

<http://www.abss.k12.nc.us/system/policies/copyrightgl.html>

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