

REGULATION

MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: EGB-EA

Responsible Office: Associate Superintendent for Instruction and Program Development
Department of Instructional Resources

Using Copyrighted Materials

I. PURPOSE

To explain the implications of the federal copyright law on the use of printed materials, microcomputer software, and videotapes in the schools, establish guidelines for the use of copyrighted materials, and establish procedures for applying for copyright for MCPS materials

II. BACKGROUND

MCPS staff and students are to comply with these procedures in the use of publications, software, and video and audio recordings to protect the authors of these works from infringement upon their legal rights. These procedures have been developed to adhere to the federal copyright laws (see Exhibit EGB-EA) and to the MCPS policy on the Evaluation and Selection of Instructional Materials. This regulation also establishes guidelines for protecting the Board of Education as the holder of reproduction rights to all materials produced by MCPS employees as part of their official duties.

III. PROCEDURES

A. Using Copyrighted Materials

The federal copyright law and associated documents demonstrating legislative intent contain many exceptions that grant educators considerably more latitude in the use of copyrighted materials. The procedures outlined here have already taken those concessions into consideration, and thus no staff member should assume the rules can be bent further because the materials are used for instruction. These laws exist primarily to protect the income of copyright holders, and thus any improper use that substitutes for purchasing the item – whether or not the school or teacher can afford to do so – is considered a flagrant violation and is punishable by a severe fine and jail term.

It should also be emphasized that many copyright holders are willing to grant reproduction rights of their property on request. Staff members anticipating the use of such material should request that permission as early as possible. A telephone call to the copyright holder (see copyright inscription at the front of the book or on the tape label, as the case may be), followed by a letter outlining the proposed use of the material, will result in permission being granted in many instances.

Federal copyright law and guidelines permit some duplication of copyrighted material for classroom use if the need is truly “spontaneous” and the teacher does not have the time to seek permission prior to such use. This, however, does not absolve the user from the obligation to seek permission after the fact and to destroy the copies if permission is denied.

1. Duplicating Printed Documents

Staff members of publications services will not accept copyrighted material for duplication unless permission from the publisher has been obtained. Individual schools and offices should post copyright warning notices near their copying machines to alert staff members of the dangers of violating those laws. School personnel may not be required to copy copyrighted material unless permission from the publisher has been obtained or the material falls into the categories described previously. There are, however, limited instances where such copying is permitted. The federal guidelines governing these occasions are described in EGB-EA.

2. Use of Microcomputers and Software

MCPS staff, students, and others using instructional microcomputers and MCPS software are expected to comply with the guidelines stated below regarding the use of copyrighted and/or licensed software.

- a) In observance of the copyright provisions for copyrighted disks, it is illegal to:
 - (1) Copy a disk without the written permission from the copyright holder
 - (2) Use one piece of software to boot more than one machine at a time unless licensed by the copyright holder.
 - (3) Use a BACKUP DISK at the same time the original is being used

- (4) Reproduce manuals or parts of manuals documenting software without written permission from the copyright holder
 - (5) Use educationally licensed software for personal or school use other than “direct training” of staff and students
- b) Staff should read and be aware of the student software piracy statement and the requirements to obtain a computer user’s card. Students and staff in schools having computer laboratories are required to qualify for a user’s card before using MCPS equipment independently.
 - c) In situations where the documentation directs or suggests that the user make an archival copy of the software prior to use (e.g., Pascal), only one copy may be made.
 - d) Staff should report missing or malfunctioning software to the manager of processing services.
 - e) Software checked out to a staff member may not be loaned to a third party.
 - f) The media specialist will receive, process, maintain, and keep the appropriate records for all software. The media specialist will check out software to appropriate staff, and copies of appropriate licensing agreements will be kept on file in the media center.
 - g) Staff should read and be aware of any special licensing agreement that may pertain to the use of the software.
3. Use of Videotapes

a) Rented Videotapes

Videotaped movies are strictly protected by copyright laws. Under no circumstances should tapes rented from a video store or “club” be shown to a school assembly or class. Under the law, showings like these are considered “public performances.” Rented tapes, however, are designated for home use only. While some video stores purport to grant “permission” for school showing, staff should be cautioned that these stores do not hold the copyright and therefore have no authority to grant permission.

b) Purchased Videotapes

If a lawfully purchased videotape does not bear any prohibition against its use in public performance, either on the box, label or copyright inscription on the tape itself, it may be used in a strictly defined “face-to-face” instructional setting, but only if the appropriate evaluation and approval of that program is on file with evaluation and selection.

c) Use of Off-Air Recordings

The Supreme Court has legalized the videotaping of programs off the air specifically for home use. That means that any showing of such recordings outside the family setting requires permission of the copyright holder. On occasion permission is granted in advance for schools and/or school systems to record programs off the air and distribute them, but these permissions carry strict conditions which must be observed.

d) Student Viewing

For those programs for which permission has been granted to record and whose tapes have been sent to the school by the Department of Instructional Resources, the off-air recordings may only be shown in the course of teaching activities within 10 consecutive school days of the date of recording....(“School days” are defined as school session days; thus weekends, holidays, vacations, and examination periods or other scheduled interruptions are excluded.) The recordings may only be used once in the course of relevant face-to-face teaching activities (not for noninstructional entertainment purposes). The off-air recordings may only be repeated once when the teacher has determined that instructional reinforcement is necessary for that same class. The tape may be retained for an additional 35 days for teacher evaluation to determine whether a copy should be purchased. At the conclusion of this 45 day period, the tape must be erased or destroyed.

Off-air recordings must be used in classrooms or similar places devoted to instruction, for example, in an auditorium (as long as the activity is for face-to-face purposes and not for entertainment) or in a library (again, as long as actual teaching is being done) or in the homes of home-bound students where formalized home instruction is occurring. Transmission of

the program over ITFS or closed circuit is permitted as long as the transmission does not go beyond a single building, cluster or campus.

B. Obtaining a Copyright

1. In accordance with the procedures outlined below, instructional guides, tests, curriculum units, pamphlets and like materials, films, slide shows, and video recordings may be copyrighted to protect the rights of the Board of Education. A document in draft form or an audiovisual program in a preliminary stage of production does not have to carry a copyright inscription, but the inscription should be included in the final version when it is published or distributed for showing. The copyright inscription is the first step toward securing copyright protection. Although it is not advisable to distribute an item without a copyright notice, this does not automatically preclude copyright protection. The notice, however, should be inscribed as soon as practicable on all copies.
 - a) When a manuscript for an instructional guide, curriculum unit, pamphlet, or like material is submitted for editing, the director of the Division of Media Technology and Production is responsible for:
 - (1) Reviewing the draft document to determine whether the material is of sufficient originality and value to warrant a copyright
 - (2) Assuring that the final printed document carries a copyright inscription (see Item 2. below), when appropriate
 - (3) Preparing all required forms and documents for approval by the superintendent of schools and for transmittal to the Register of Copyrights
 - (4) Maintaining records of copyrights registered for MCPS materials
 - b) Since audiovisual programs are not usually submitted for editing, those responsible for producing them should contact the director of the Division of Media Technology and Production early in the production schedule to discuss the advisability of copyrighting the program and the means of affixing the inscription. Generally speaking, copyrighting an audiovisual production would not be necessary if it is of strictly local or short-lived interest. If the production were to be widely distributed and copies could be made and duplicated for someone else's profit, copyrighting would be

advisable. These matters will be discussed with the director of the Division of Media Technology and Production, along with arrangements for registration of the finished product, if that course is agreed upon.

2. Copyright Inscription

At the time of the initial publication of a document, a copyright inscription is included on the title page or cover, or the reverse side of those pages. In the case of a motion picture or other audiovisual work, the notice can be inscribed by any means as long as it appears whenever the work is performed in its entirety, such as with or near the title, with the credits, immediately following the beginning of the work, or immediately preceding the end of the work. The copyright inscription should read as follows:

Copyright (year)
by the
Board of Education of Montgomery County
Rockville, Maryland

Administrative History: Formerly Regulation No. 260-3, February 27, 1980; directory information updated January, 1983; revised October 1984; revised May 2, 1988.