

**USE OF COPYRIGHTED MATERIALS**

The Board of Education recognizes that district staff and students may use a variety of copyrighted materials in the educational program and other district operations. When such materials have not been purchased by the district for the intended use, the Board expects staff and students to respect the protections afforded by federal law to the copyright owners of those materials and respect any limitations by the copyright holder to the license of such materials.

*(cf. 1113 - District and School Web Sites)*  
*(cf. 1114 - District-Sponsored Social Media)*  
*(cf. 4040 - Employee Use of Technology)*  
*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*  
*(cf. 4132/4232/4332 - Publication or Creation of Materials)*  
*(cf. 5131.9 - Academic Honesty)*  
*(cf. 6141 - Curriculum Development and Evaluation)*  
*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*  
*(cf. 6161.11 - Supplementary Instructional Materials)*  
*(cf. 6163.1 - Library Media Centers)*

Any literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, audiovisual or motion picture, sound, architectural, or other original work shall be assumed to be a copyrighted work, regardless of whether the work appears in print, audio, video, electronic, or other fixed and tangible form.

Before reproducing a copyrighted material for instructional or other district purposes, a staff member shall determine if the material is in the public domain or if the intended use of the material meets the criteria for fair use or another exception pursuant to 17 USC 107-122. If the material is not in the public domain or no recognized exception applies, the staff member shall seek permission of the copyright holder before using the material.

The Superintendent or designee shall inform staff that inclusion of an attribution citing the author and source of a copyrighted material does not absolve the staff member from the responsibility to either obtain permission or satisfy criteria for fair use or another exception.

If a staff member is uncertain as to whether the intended use of the material meets the criteria for fair use or another exception, he/she shall take the safest course and seek permission from the copyright holder to use the material or, if it is impracticable to obtain permission, shall contact the Superintendent or designee for clarification and assistance.

Students shall not copy or distribute copyrighted works to others. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment.

*(cf. 3300 - Expenditures and Purchases)*  
*(cf. 3312 - Contracts)*  
*(cf. 6163.4 - Student Use of Technology)*

## USE OF COPYRIGHTED MATERIALS (continued)

### Legal Reference:

#### EDUCATION CODE

35182 Computer software

#### UNITED STATES CODE, TITLE 17

101-122 Subject matter and scope of copyright, especially:

102 Definitions

106 Copyright protection

107 Fair use of copyrighted works

110 Limitations on exclusive rights: Exemption of certain performances and displays

504 Penalties for copyright infringement

#### COURT DECISIONS

*Cambridge University Press et al. v. Becker et al.*, (N.D. Ga. 2012) 863 F.Supp.2d 1190

*Campbell v. Acuff-Rose Music, Inc.*, (1994) 510 U.S. 569

*Marcus v. Rowley*, (9th Cir., 1982) 695 F.2d 1171

### Management Resources:

#### NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

*Copyright Law: Do Schools Need a License to Show a Movie?*, School Law Review, July 2010

#### U.S. COPYRIGHT OFFICE PUBLICATIONS

*Circular 21: Reproduction of Copyrighted Works by Educators and Librarians*, rev. 2009

*Circular 22: How to Investigate the Copyright Status of a Work*, rev. 2013

*Circular 23: The Copyright Card Catalog and the Online Files of the Copyright Office*, rev. 2012

#### WEB SITES

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

National School Boards Association: <http://www.nsba.org>

University of California, Copyright Education:

<http://copyright.universityofcalifornia.edu/usingcopyrightedworks.html>

U.S. Copyright Office: <http://www.copyright.gov>

Policy

adopted: December 12, 2017

Effective: February 1, 2018

**SAN DIEGO UNIFIED SCHOOL DISTRICT**

San Diego, California

**USE OF COPYRIGHTED MATERIALS**

Prior to reproducing, distributing, displaying, posting, performing, or otherwise using a copyrighted material for an instructional purpose or in the course of other district business, district staff shall determine whether it is necessary to request permission of the copyright holder. Unless the staff member is reasonably certain that the material is in the public domain or the intended use meets the criteria for an exception specified in 17 USC 107-122 and this administrative regulation, he/she shall either obtain permission from the copyright holder or avoid use of the material. In addition, permission of the copyright holder shall be requested whenever district staff intend to publicly disseminate a copyrighted work, such as by posting on the district or school web site or using another method of communications accessible to the public.

*(cf. 1113 - District and School Web Sites)*  
*(cf. 1114 - District-Sponsored Social Media)*  
*(cf. 4040 - Employee Use of Technology)*  
*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*  
*(cf. 4132/4232/4332 - Publication or Creation of Materials)*  
*(cf. 5131.9 - Academic Honesty)*  
*(cf. 6141 - Curriculum Development and Evaluation)*  
*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*  
*(cf. 6161.11 - Supplementary Instructional Materials)*  
*(cf. 6163.1 - Library Media Centers)*

Any reproduction or other use of a copyrighted work shall include the copyright notice.

District staff shall not reproduce and distribute copyrighted works of any type in any of the following circumstances:

1. When the copyrighted work is a "consumable" work such as a workbook, standardized test, answer sheet, or similar material
2. To substitute for the purchase of the work
3. To create, replace, or substitute for anthologies or collective works

**Request for Permission to Use Copyrighted Material**

As necessary, district staff desiring to use a copyrighted material shall identify and contact the copyright holder to request permission to use the material. The request shall include the following information:

1. Title, author(s), editor(s) or publisher, producer(s) or distributor
2. Edition, copyright, and/or production year

### **USE OF COPYRIGHTED MATERIALS (continued)**

3. Exact amount of material to be used, such as the number of lines, pages, or chapters or percentage of the work
4. Nature of the use, such as the course in which it will be used, the grade level of the students, the number of students, and the frequency of use
5. How the material will be reproduced and distributed

If the copyright holder requires a fee to grant permission, district staff shall seek approval from the Superintendent or designee prior to incurring the cost.

### **Criteria for Fair Use**

In considering whether a copyrighted work may be used without the copyright holder's permission on the grounds that the intended use is "fair use" pursuant to 17 USC 107, including reproduction in copies, phonorecords, or any other reproductive form for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, district staff shall consider all of the following factors: (17 USC 107)

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit 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

Any determination of fair use shall weigh together all the factors specified in items #1-4 above in addition to any applicable guidelines presented in this administrative regulation for specific types of copyrighted works.

### **Guidelines for Copying Text**

Staff may reproduce text from a copyrighted work from a printed resource, the Internet, or other source, without permission from the copyright holder, under the following conditions:

1. A single copy of a chapter of a book, article from a periodical or newspaper, short story, short essay, short poem, chart, graph, diagram, drawing, cartoon, or picture may be made by or for a teacher for his/her scholarly research or use in teaching or preparation to teach a class.

**USE OF COPYRIGHTED MATERIALS (continued)**

2. Multiple copies, not to exceed one copy per student in a course, may be made by or for a teacher for classroom use or discussion, provided that:
  - a. The amount to be copied does not exceed:
    - (1) 250 words for a complete poem or excerpt from a poem
    - (2) 2,500 words for a complete article, story, or essay
    - (3) 1,000 words or 10 percent of the whole (with a minimum of 500 words), whichever is less, for an excerpt from a larger prose work
    - (4) One illustration (e.g., chart, graph, diagram, cartoon, or picture) per book or periodical issue
  - b. The copying is for only one course in the school.
  - c. With the exception of newspapers and other news periodicals, not more than one work is copied from the same author per term, not more than three works are copied from the same collective work or periodical volume per term, and there are no more than nine instances of multiple copying per course per term.
  - d. A delay to request permission from the copyright holder would preclude the most effective instructional use of the material.

**Guidelines for Reproducing Sheet and Recorded Music**

District staff may reproduce sheet music and recorded music without permission from the copyright holder under the following conditions:

1. Emergency copies may be made when purchased copies needed for an imminent performance are not available, provided that replacement copies shall be purchased in due course.
2. Single or multiple copies of excerpts of works may be made for academic purposes other than performances, provided that the excerpt does not constitute an entire performable unit (e.g., a section, movement, or aria), no more than 10 percent of the total work is used, and the number of copies made does not exceed one per student.
3. Printed copies that have been purchased may be edited or simplified provided that the character of the work is not distorted and lyrics are not added or altered.

## **USE OF COPYRIGHTED MATERIALS (continued)**

4. A single copy of a recorded performance by students may be made for evaluation or rehearsal purposes.
5. A single copy of recordings of copyrighted music owned by the district or individual teacher may be made for the purpose of constructing exercises or examinations.

## **Guidelines for Performing or Displaying Copyrighted Works**

In the course of face-to-face instruction in a classroom or similar place devoted to instruction, teachers or students may recite, render, play, dance, act, or show a copyrighted work either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, show its images in any sequence or to make the sounds accompanying it audible, provided that: (17 USC 101, 110)

1. The performance or display is given by means of a lawfully obtained copy of the work.
2. The performance or display is made by, at the direction of, or under the actual supervision of a teacher as an integral part of a class session.
3. The performance or display is directly related and of material assistance to the teaching content of the transmission.
4. The transmission is limited to students enrolled in the course or to Board of Education members or employees as part of their official duties or employment.
5. If the work is to be digitally transmitted, the district has applied technological protections that reasonably prevent retention of the work in accessible form for longer than the class session and the unauthorized further dissemination of the work.

Any use of a motion picture or other audiovisual work outside the curriculum, such as for entertainment, a school or class reward, or a fundraiser, shall require permission from the copyright holder or a special viewing license.

## **Guidelines for Recording Broadcast Programming**

Teachers may make recordings of television programs for use in a classroom for educational purposes under the following conditions:

1. Only programs provided to the public free of charge may be recorded and shown. Any use of programming from paid television services shall require permission of the copyright holder.

**USE OF COPYRIGHTED MATERIALS (continued)**

2. The recording may be shown only during the first 10 consecutive school days after it is made. It may be used once by an individual teacher in the course of relevant teaching activities and may be repeated once only when instructional reinforcement is necessary.
3. A limited number of copies may be reproduced from each recording to meet the legitimate needs of the teacher. Each copy shall be subject to all the provisions governing the original recording.
4. The recording may be retained for 45 calendar days after it is made and then shall be erased or destroyed. However, after the first 10 consecutive school days, the recording may only be used for purposes of determining whether or not to include the broadcast program in the teaching curriculum. If the teacher decides to keep the program for use in the curriculum, he/she shall request permission from the copyright owner.
5. Off-air recordings need not be used in their entirety, but the content of recorded programs may not be altered.

**Guidelines for Copying Computer Programs or Software**

District staff shall observe all licensing agreements between vendors and the district, including monitoring the number of users permitted by an agreement. Unless the applicable licensing agreement authorizes multiple users of a single computer program or software, the district shall not make multiple copies.

Copies of district-owned software may be made under either of the following conditions: (17 USC 117)

1. The copy is needed as an essential step in using the computer program with a particular machine.
2. The copy is used for archival or "backup" purposes only. This copy may be held only as a file copy and must be destroyed in the event that continued possession of the program ceases to be rightful, unless the copyright owner authorizes its sale, lease, or transfer as part of the sale, lease, or transfer of the original program.

Regulation  
approved: December 12, 2017  
Effective: February 1, 2018

**SAN DIEGO UNIFIED SCHOOL DISTRICT**  
San Diego, California







## **ADMINISTRATIVE PROCEDURE**

CATEGORY: **Personnel, Staff Ethics**

SUBJECT: **Staff Use of District Data Communications  
and the Internet**

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### **1. PURPOSE AND SCOPE**

1. To outline rules governing district staff's use of district data communications networks and the Internet.
2. **Related Procedures:**
  - Copying and use of copyrighted materials.....7038
  - Integrated Technology Support Services security of information..... 5700
  - Written communications.....1600

### **2. LEGAL AND POLICY BASIS**

1. **Reference:** Board Policy G-7500; Education Code Section 51870.5; California Penal Code Sections 313, 502.
2. **Access to Harmful Matter.** School districts that provide pupils with access to the Internet or to an online service are required by Education Code section 51870.5 to adopt a policy regarding access to sites that contain or make reference to harmful matter as defined in subdivision (a) of section 313 of the Penal Code. "Harmful matter" means matter that, taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to prurient interest (i.e., a shameful or morbid interest in nudity, sex, or excretion); matter which taken as a whole goes substantially beyond customary limits of candor in description or representation of such matters; and matter which taken as a whole is utterly without redeeming social importance for minors.

### **3. GENERAL**

1. **Originating Office.** Questions and suggestions concerning this procedure should be directed to the Integrated Technology Support Services Department.
2. **Definitions**
  - a. **Network:** Two or more computer systems linked to allow communication. The district's network connects schools and support offices to provide data communications, such as e-mail, file sharing, and Internet access.
  - b. **Internet:** A global network of interconnected computers.
  - c. **World Wide Web:** A global, hypertext-based information system accessible through the Internet via HTTP protocol.

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- d. **Universal Resource Locator (URL):** The address of a source of information on the Internet.
  - e. **District E-mail:** Electronic mail messaging over the district's communications networks. (sandi.net electronic mail accounts.)
  - f. **Personal E-mail:** Electronic mail messaging sent using accounts other than one's assigned, sandi.net email account.
  - g. **File server:** A shared computer providing data storage and services to users.
  - h. **District data:** Information maintained and processed in the conduct of district business as required by state or federal mandate and/or district procedure. Confidentiality restrictions may apply to information maintained as district data records and to all copies of those records.
  - i. **System administrator:** Person(s) responsible for providing and/or managing network services (e.g., file servers, e-mail, Internet services).
  - j. **Security administrator:** Person(s) responsible for providing network security.
  - k. **Network use guidelines:** District guidelines for staff regarding acceptable use of the Internet and district networks.
3. **Acceptable Use.** The use of San Diego Unified School District's network services is a privilege and is to be limited to district business as authorized by board policy. Use of the district's network services by district employees should support district policy and procedure in the performance of assigned duties.
- a. **Access to certain data and processes** may be allowed through the use of a username and password. Use of an employee's specific username and password is affected in order to assign direct responsibility for work performed while using the username and password to that specific employee.
  - b. **By accessing district resources and data** through the use of a username and password, the employee agrees to maintain the confidentiality of the username and password. The employee is solely responsible for maintaining the confidentiality of any username and password and shall not request or use another employee's password that has been chosen or is chosen on his or her behalf. The security administrator at the Integrated Technology Support Services is to be informed of any breaches to this procedure.

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#### 4. **Prohibited Use**

- a. **Transmission of any material** in violation of any federal or state law is prohibited. This includes, but is not limited to distribution of:
- (1) Any information that violates or infringes upon the rights of any other person.
  - (2) Any defamatory, inappropriate, abusive, inflammatory, obscene, profane, sexually oriented, threatening, racially offensive, or illegal material. Do not use language that would not be appropriate in an educational setting.
  - (3) Advertisements, solicitations, commercial ventures, or political lobbying.
  - (4) Any information that encourages the use of controlled substances or the use of the system for the purpose of inciting crime.
  - (5) Any material that violates copyright laws, e.g., illegal downloading, reproduction and distribution of pirated or unlicensed copyrighted computer programs, music, or movie files (Procedure 7038).
- b. **Any vandalism**, unauthorized access, "hacking," or tampering with hardware or software, including introducing "viruses" or pirated software, is strictly prohibited (California Penal Code section 502).

**Cyber-Bullying**, the use of any electronic communication device to convey a message in any form (text, image, audio, or video) that intimidates, harasses, or is otherwise intended to harm, insult, or humiliate another in a deliberate, repeated, or hostile and unwanted manner is strictly prohibited. Using personal communication devices or district property to cyber-bully one another may result in the cancellation of network privileges and /or disciplinary action. Cyber-bullying may include but is not limited to:

- (1) Spreading information or pictures to embarrass;
- (2) Heated unequal argument online that includes making rude, insulting or vulgar remarks;
- (3) Isolating an individual from his or her peer group;
- (4) Using someone else's screen name and pretending to be that person;
- (5) Forwarding information or pictures meant to be private.

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**Warning:** The district reserves the right to monitor all network activity. No employee should have any expectation of privacy as to his/her usage. The district reserves the right to inspect any and all files on computers or servers connected to the district's network.

- c. **Inappropriate use** may result in the cancellation of network privileges and/or disciplinary action. The site system administrator(s) or district security administrator may close an account at any time deemed necessary. Depending upon the seriousness of the offense, any combination of the following will be enforced: Penal Code, Education Code, district procedures, or disciplinary action.
  - d. **Legal Issues.** The district is not responsible for an employee's use of e-mail that breaks the law. All email and calendar items sent or received in the district email system are archived and subject to disclosure under public records law and eDiscovery. Sending confidential information to unauthorized people is prohibited. Because email is increasingly being used in litigation, always keep in mind:
    - (1) Every email you write is likely to be preserved by somebody, somewhere.
    - (2) Email can be misinterpreted in court cases: write clearly and unambiguously.
    - (3) All messages should uphold the ethical values of the District.
5. **District E-mail.** Users of electronic mail systems should not consider electronic communications to be either private or secure; such communications are subject to public records law and eDiscovery. Messages relating to or in support of illegal activities must be reported to appropriate authorities. Other conditions for use include, but are not limited to, the following:
- a. **Individuals are to identify** themselves accurately and honestly in e-mail communications. E-mail addresses may not be altered to impersonate another individual or to create a false identity.
  - b. **The district retains the copyright** to any material deemed to be district data. Use of district data sent as e-mail messages or as enclosures will be in accordance with copyright law and district standards.
6. **Personal E-mail.** When accessed through the district's network, employees have no expectation of privacy to their personal emails. Regardless of whether the district's network is used to access personal email, any communication, including those from a personal email account, when acting in your official, district capacity, becomes public record. As such, employees are explicitly responsible for using only district email

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and district-approved communication services to conduct district business. Personal communication shall not interfere with work responsibilities. Do not auto-forward business email to personal email accounts.

7. **Responsibilities – Reasonable precautions by district staff.** San Diego Unified School District maintains reasonable precautions to restrict access to “harmful matter” and to materials that do not support approved educational objectives. Staff will choose resources on the Internet that are appropriate for classroom instruction and/or research for the needs, maturity, and ability of their students. However, staff should understand that on a public network it is not possible to control *all* material and will accept responsibility for complying with district procedures and with standards of acceptable use.
8. **Security.** Security on any computer system is a high priority, especially when the system involves many users. If any user identifies a security problem with district networks, he/she must notify the security administrator at the Integrated Technology Support Services, either in person, in writing, or via the network. Users should *not* demonstrate the problem to other users. Any user identified as a security risk or having a history of problems with other computer systems may be denied network privileges. Violations include, but are not limited to:
  - a. **Illicitly gaining entry**, or “hacking,” into a computer system or obtaining account passwords.
  - b. **Intentionally creating** or distributing a computer virus.
  - c. **Using district systems or equipment** or knowingly disable or overload any computer system or network or to circumvent the security of a computer system.
  - d. **Knowingly bypassing** a district “firewall” used for blocking inappropriate Internet sites and for security screening. Said “firewall” may only be bypassed during use by an adult and to enable access for a bona fide district research purpose.
9. **District Web Standards.** District websites must be in compliance with the requirements set forth in *SDUSD Web Standards* (attachment 2). District related social networking sites must comply with the district’s social networking guidelines and procedure.

#### 4. IMPLEMENTATION

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**5. FORMS AND AUXILIARY REFERENCES**

1. Network Use Guidelines, Attachment
2. San Diego Unified School District Web Standards, Attachment

**6. REPORTS AND RECORDS**

**7. APPROVED BY**



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General Counsel, Legal Services  
As to form and legality

**8. ISSUED BY**



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Chief of Staff