

## **COMPLIANCE WITH COPYRIGHT LAW**

The Board of Cooperative Educational Services recognizes the necessity and importance of complying with federal laws governing the use of copyrighted material. Infringement of copyright is a serious offense against the laws of the United States and is contrary to the ethical standards of behavior expected of staff and students.

The Board, therefore, directs that all reproductions of copyrighted materials, by or under the auspices of Questar III by any Questar III employee or student, shall be conducted strictly in accordance with applicable provisions of law. Unless otherwise allowed as "fair use," as defined under law, permission must be acquired from the copyright owner prior to reproducing the copyrighted materials in any medium whatsoever.

The District Superintendent shall develop such regulations and procedures as he or she may deem appropriate to carry out this policy.

## **COMPLIANCE WITH COPYRIGHT LAW - REGULATIONS**

### **I. Copyright Status of a Work**

Under federal law, copyright protection is afforded creative expressions found in any type of medium, including literary, pictorial, graphic, artistic, phonographic and video works. In many instances, these works will contain a copyright notice, often denoted by a lower case, encircled "c." A copyright notice is not necessarily required to establish copyright protection, however, and the absence of a copyright notice or symbol should not be read to indicate that the work has no copyright protection. Copyright protection should be presumed until established otherwise.

### **II. Protections Afforded Copyrighted Works**

The author or creator of a work that has copyright protection is given many rights under law, including the exclusive right to reproduce the work and to allow others to do so. This includes the right to reproduce the work into other mediums. For instance, literary and other graphic or pictorial works may be reproduced into the original medium by reprinting or photocopying or into a new medium by transfer into an electric medium such as a compact disc. A three dimensional work, such as a sculpture, may be reproduced by photograph. Students and staff must be mindful that reproducing a copyrighted work is illegal unless authorized by the copyright holder.

### **III. Failure to Comply**

Federal copyright laws set stiff penalties for failing to comply with the copyright laws that can include severe monetary penalties. Additionally, copying certain works could impair contractual relationships between Questar III and copyright owners. For example, unauthorized copying of a software product licensed to Questar III could result in revocation of the license.

### **IV. When Fair Use of Copyrighted Works is Permitted**

A limited exception to the general rule that only the author, or another authorized by the author, may reproduce a copyrighted work is referred to as the "fair use" exception. Libraries and educational institutions often rely on this exception to justify the limited reproduction of works for research or educational purposes. It is important to understand, however, that the fair use exception is very limited and does not authorize copying in every instance even for educational purposes. A "four factor" test is applied in order to analyze fair use:

- What is the character of the use? While educational use is favored, it does not, alone, justify fair use.
- What is the nature of the work to be used? Use of a work which is factual in nature is more likely to result in a finding of fair use, while a work imaginary in nature is not.
- Will the use negatively affect the value of the copyrighted material? Copying all or a significant portion of a work to avoid purchasing it is not fair use.
- Was the copying undertaken in good faith? To be good faith, the infringer must reasonably believe the use was fair. Failure to understand the rules may not constitute good faith.

#### V. Specific Guidelines for Fair Use

The following standards will be applied by Questar III staff and students to determine whether copying is allowed under the fair use doctrine. All questions relating to whether a work is protected by copyright or whether copying is authorized under the fair use doctrine should be directed, before the copying takes place, to the Questar III school attorney. In no instance shall copying exceed the number of students.

#### A. Use of Literary, Pictorial and Graphic Works

1. A single copy may be made of any of the following by or for a teacher at his or her individual request for scholarly research or use in teaching:
  - a. A chapter from a book;
  - b. An article from a periodical or newspaper;
  - c. A short story, short essay or short poem; and
  - d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.
2. Multiple copies of works listed in Section A may be made by or for a teacher for classroom use or discussion; provided that:
  - a. The numbers of copies made does not exceed the number of students in the class;
  - b. Each copy must include a notice of copyright;

- c. The inspiration and decision to use the work and the moment of its use for maximum teacher effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission;
- d. More than nine instances of such multiple copying for one course during one class semester is impermissible;
- e. No more than one short poem, article, story, essay or two excerpts may be copied from the same author;
- f. No more than three short poems, articles, stories, essays or excerpts may be copied from the same collective work or periodical volume;
- g. The copying of poetry and prose is limited to: a) a complete poem, if less than 250 words and, if printed, not more than two pages or an excerpt of not more than 250 words from a longer poem; and b) completed articles, stories or essays of less than 2,500 words, or an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less; and
- h. The copying of charts, graphs, diagrams, drawings, cartoons and pictures is limited to one chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue;
- i. Copying shall not be used to create or replace anthologies, compilations or collective works.
- j. Consumable works, such as worksheets, shall not be copied;
- k. Copying shall not be a substitute for the purchase of books, periodicals or reprints.

#### B. The Use of Broadcast Programs

1. Broadcast programs are television programs transmitted by television stations for reception by the general public without charge.
2. A broadcast program may be recorded simultaneously with broadcast transmission and retained by the District for no more than the first forty-five consecutive calendar days after the date of recording.

3. Recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary during the first ten consecutive school days in the forty-five calendar day retention period. School days are school session days, not counting weekends, holidays, vacations, examination periods or other scheduled interruptions within the forty-five calendar day retention period.
4. After the first ten consecutive school days, recordings may be used up to the end of the forty-five calendar day retention period only for teacher evaluation purposes (i.e., to determine whether or not to include the broadcast program in the teaching curriculum).
5. All recording should be done by the Questar III at the request of individual teachers. The department and/or individual responsible for recording shall maintain a log in which the dates of recording, the ten-day use period and the forty-five day retention period are marked. It is the responsibility of the department and/or individual responsible for recording to notify individual teachers of the relevant dates for the ten-day period as well as the forty-five day period and to request the return of all recordings. It will also be the responsibility of the department and/or individual responsible for recording to erase or destroy the recordings immediately at the close of the forty-five day retention period.
6. Recordings may be made only at the request of and use by individual teachers and may not be regularly recorded in anticipation of requests.
7. No broadcast program may be recorded more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.
8. A limited number of copies may be reproduced from each recording to meet the legitimate needs of teachers. The copies are subject to the ten-day use period and forty-five day retention period applicable to the recording.
9. Recordings and copies of recordings must include the copyright notice on the broadcast program as recorded.
10. Broadcast programs need not be used in their entirety, but the recorded programs may not be altered from their original content. The recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

C. Use of Copyrighted Music

1. Multiple copies of excerpts of musical works may be made provided that:  
1) the excerpts do not comprise a part of the whole which would constitute a formal unit such as a section movement or aria; and 2) no more than 10% of the whole work may be copied for academic purposes other than performances.
2. A single copy of an entire performable unit (section, movement, aria, etc.) which is confirmed by the copyright owner to be out of print or unavailable except in a larger work, may be made by or for a teacher solely for the purpose of his or her scholarly research or in preparation to teach a class.
3. Printed copies which have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, are not altered or, if none exist, added.
4. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by Questar III or individual teacher.
5. A single copy of a sound recording (e.g., tape, disc, cassette, etc.) may be made from existing sound recordings owned by Questar III or individual teacher for the purpose of constructing aural exercises or examinations and may be retained by Questar III or individual teacher.
6. All permissible copies must include the copyright notice appearing on the printed copy from which copies are made.
7. Downloading, playing or copying musical works, into any format or medium, from the Internet is prohibited.

D. Copying Machines

1. A notice that the making of a copy may be subject to the copyright law must be displayed in the vicinity of all copying machines owned or operated by Questar III. The following notice will satisfy this requirement:

**WARNING CONCERNING COPYRIGHT RESTRICTIONS**

**The Copyright Law of the United States (Title 17 United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be used for any purpose other than private study, scholarship or research. If a user makes a request for or later uses a photocopy or reproduction for purposes other than private study, scholarship, research, comment, criticism, news reporting and classroom preparation, that user may be held liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment or the order would involve violation of Copyright Law.**

2. Order forms for copying should include a warning of copyright restrictions.

E. Use of Computer Programs

1. Copying computer programs without authorization from the copyright owner is impermissible.
2. Computer programs owned or licensed by Questar III shall be retained by the person designated by the Assistant Superintendent for Administrative and District Services. Requests to have a computer program installed on any Questar III computer must be submitted to such designated person. Upon installation, the Questar III employee(s) utilizing such computer are deemed to agree to abide by the license requirements applicable to such program.
3. Questar III students and staff shall not modify, add to or delete any portion or part of a software program. Questar III students and staff shall not transfer or aid in the transfer of software or its documentation to others.

F. Use of Teacher-Owned Rented Videos

Teachers may show motion pictures or other audiovisual works in the course of face-to-face teaching activities in a classroom or similar place devoted to instruction provided that the performance is given by means of a copy lawfully made.

Use of Copyrighted Works on the Questar III Website, Promotional Materials or other Products

No copyrighted works may be reproduced on the Questar III website or in any promotional materials, documents, videos or other products printed, created, produced or maintained by or at the behest of Questar III without prior authorization of the copyright holder. No person's image will be used in any promotional materials, documents, videos or other products printed, created, produced or maintained by or at the behest of Questar III without prior approval of such person.