

Copyright Law

Copyright is a form of protection provided under federal law to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works. Section 106 of the 1976 Copyright Act gives the owner of a copyright the exclusive right to the following:

- To make copies of the copyrighted material;
- To create derivative works based upon the copyrighted material;
- To distribute copies of the copyrighted material to the public by sale or other transfer of ownership;
- To perform the work publicly, in the case of literary, musical, or dramatic works; and
- To display the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work.

It is illegal for anyone to violate any of the rights provided by the copyright law to the owner of a copyright. One limitation to these rights is the doctrine of "fair use," which is authorized under section 107 of the 1976 Copyright Act.

Fair Use of Copyright

Section 107 contains a list of the various purposes for which the reproduction of a particular work may be considered "fair," such as criticism, comment, news reporting, teaching, scholarship, and research. Section 107 also sets out four factors to be considered in determining whether or not a particular use is fair:

- The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
- The nature of the copyrighted work;
- Amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- The effect of the use upon the potential market for or value of the copyrighted work.

There is no clear line drawn as to when fair use becomes a copyright infringement. Also, merely acknowledging the source of the material does not exempt you from the copyright restrictions. The safest course of action is to seek permission from the copyright owner to use the material. If you intend to rely on the fair use doctrine, you may need to seek advice from your school district legal counsel.