



SECTION III: INSTRUCTION POLICY 3240

UNITED STATES COPYRIGHT LAW

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The district does not condone, and will not allow, violations of the United States copyright laws. Employees are expected to ensure that their actions comply with copyright law and to impress upon students the importance of compliance with copyright law.

Ownership of Copyrighted Works

Copyright protection applies to original works of authorship fixed in any tangible medium of expression, from which they can be perceived, reproduced, or otherwise communicated. Examples of copyrighted works include books, pictures, drawings, sound recordings, motion pictures, television shows, sheet music and scripts. In general, the copyright protections that apply to printed materials also apply to visual and digital formats.

Exclusive Rights of Copyright Holders

Subject to certain specific exceptions, the owner of a copyright to a work has the exclusive right to reproduce, adapt, distribute, perform, or display the copyrighted work or to authorize such reproduction, adaptation, distribution, performance, or display.

Exceptions to Exclusive Rights

The following exceptions may authorize the use of a copyright work without violating the exclusive rights of the copyright holder. Employees that reproduce, distribute, perform or display copyrighted works are responsible for ensuring that their planned use of a copyrighted work falls under one or more of the exceptions set forth below.

A. Fair Use

The “fair use” of a copyrighted work for purposes of teaching, scholarship, or research is not an infringement of copyright. The following factors shall be considered in determining whether a given use of a copyrighted work is considered fair use:

1. The purpose and nature of the use; whether the use is of a commercial nature or for non-profit educational purposes.
2. The nature of the copyrighted work.
3. The amount and importance of the portion used in relation to the copyrighted works as a whole.

4. The effect of the use upon the potential market for, or the value of, the copyrighted work.

The United States Copyright Office has published a regulatory guidance document entitled “Reproduction of Copyrighted Works by Educators,” also known as “Circular 21,” which sets forth a series of “safe harbor” rules providing that certain specific uses of copyrighted works are considered fair use. Circular 21 is available at the Copyright Office’s website (<https://www.copyright.gov/circs/>). Employees should familiarize themselves with these rules and, to the extent doing so is feasible, use copyrighted works in ways that are consistent with the safe harbor requirements.

B. Face-to-Face Teaching Activities

A further exception to the exclusive rights of copyright holders applies to the performance or display of a work by instructors or students in the course of face-to-face teaching activities in a classroom or other place devoted to instruction.

This exception does not apply to the performance/display of a copy of a motion picture or other audiovisual work that the person responsible for the performance/display knew or had reason to know was not lawfully made.

C. Electronic Transmission During Distance Learning Class Sessions

A further exception applies to the performance or display of a copyrighted work as a regular part of a class session conducted via distance learning if the following conditions are met:

1. The copyrighted material is directly related to and of material assistance to the teaching content of the class.
2. The amount of material provided is comparable to that typically displayed in a live classroom session. A performance of an entire nondramatic literary or musical work may also satisfy this requirement.
3. Students are provided with notice that materials distributed in the course may be subject to copyright protection.
4. The transmission of copyrighted material is limited to students enrolled in the class to the extent technologically feasible,
5. Copyrighted works are made available to students for a limited duration no longer than the class session. Students may not be permitted to retain a permanent copy of the material or to further disseminate it.
6. The instructor does not interfere with technological measures used by copyright owners to prevent unauthorized retention/dissemination of copyrighted works.

7. The district provides appropriate informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright.

This exception does not apply to the conversion of print or other analog versions of works into digital formats unless: (1) no digital version of the work is available, or (2) the digital version employs technological protection measures that prevent its use.

This exception does not apply to the performance/display of a copy of a motion picture or other audiovisual work that the instructor knew or had reason to know was not lawfully made.

D. Public Domain

Works that are in the public domain are no longer under copyright protection or do not meet the requirements for copyright protection.

Use of Copyrighted Works with Permission

In order to obtain authorization to make use of a copyrighted work in a way that is not permitted by one or more of the exceptions detailed above, district employees may also seek to obtain permission for such use from the copyright holder.

A request for permission should include detailed information about the nature of the permission sought, including (1) a specific description of the item to be copied (title, author, edition, page numbers, frames, excerpts, etc.), (2) the type of duplication and number of copies, and (3) plans for usage and distribution of copies and the frequency of use. Any permission received from a copyright owner for use of a work must be in writing.

Copyright Infringement

Unless an exception applies or appropriate permission has been obtained from the copyright holder, engaging in the reproduction, distribution, performance, or display of a copyrighted work constitutes unlawful copyright infringement, which may carry civil and/or criminal penalties.

Employees who engage in copyright infringement do so at their own risk, and assume all liabilities and responsibilities associated with such conduct, and may be subject to disciplinary action.

Reference: 17 U.S.C. §§ 102, 106, 107, 110, 112, 201, and 501.

SOURCE: *Broken Arrow Board of Education policy adoption, October 11, 2021.*