

Regulation EGAD **Las Cruces Public Schools**

Related Entries: EGAD
Responsible Office: Associate Superintendent for Instruction

COPYRIGHT COMPLIANCE

I. PURPOSE

To implement the policy of the Board of Education for the Las Cruces Public Schools with regard to the compliance of school district staff with the copyright laws of the United States.

II. DEFINITIONS

A. *Copyright* means an exclusive right of reproduction, adaptation, publication, performance and/or display granted to the creator(s) of creative works, which may include literary works, musical works, dramatic works, choreographic works, motion pictures, sound recordings, architectural works, visual art and computer programs. The duration of the copyright extends for the life of the copyright owner plus 70 years.

B. *Fair Use* means the privilege extended to others than the owner of the copyright to use copyrighted material(s) in a reasonable manner without the owner's permission for a nonprofit, educational purpose in a way which does not significantly affect the potential market for the copyrighted material.

C. *Brevity, Spontaneity and Cumulative Effect* mean that the guidelines for fair use permit limited reproduction of copyrighted materials without first obtaining permission from the copyright owner, provided that standards of brevity, spontaneity and cumulative effect are satisfied.

1. *Brevity*. The standards for brevity are specific to the type of copyrighted material(s) to be reproduced. Generally, it is 10 percent of a complete work, or one item from a collection.
2. *Spontaneity*. The spontaneity requirement is met if the copying of the copyrighted material(s) is a teacher's idea and is needed in so timely a manner that there is not enough time to obtain permission for its use.
3. *Cumulative Effect*. The cumulative effect test is met if: (1) the copying of the copyrighted material(s) is for only one course in the school in which the copies are made; (2) not more than one item is copied from the same author, or three items from the same collective work or periodical volume during one class term; or (3) there are no more than nine instances of such multiple copying for one course during one class term.

- D. *Educator* means any school district employee, including teacher, educational assistant, counselor, program facilitator, librarian, custodian and administrator. For the purposes of this regulation, the definition shall also include any school district volunteer.
- E. *Face-to-face instruction* means the teacher is present during the instruction.
- F. *Term* means a single semester of any school year, and shall include the “fall” term, the “spring” term and the “summer” term.
- G. *Consumable* means school and classroom materials which are used up and replaced or replenished, including, but not limited to, workbooks, written exercises, standardized tests and answer sheets.
- H. *Off-air*, as in off-air recordings, means any recording via tape, disc or other media from a copyrighted broadcast television transmission, including simultaneous cable retransmission, of a copyrighted television program.

III. PROCESS

A. School District Employee Information and Liability

1. All school district employees shall carefully examine the guidelines in this regulation prior to copying materials of any kind, be it print, software, film, video, off-air, etc.

All employees shall read and sign LCPS Form EGAD E-4: Copyright Compliance Agreement.

2. The insurance protection of the school district shall not be extended to any employee who violates copyright laws, whether said violation occurs with knowledge or ignorance of this regulation. In the event an employee of the school district is found guilty of violating an existing copyright law by an administrative law judge, court of law and/or jury, the employee shall be liable to the school district for reimbursement in an amount equal to any direct financial loss suffered by the school district as a result of litigation due to said employee’s violation of a copyright law. This notice of liability shall be included on Form EGAD E-4 and on all Copyright Restriction Notices posted at school district copying machines and in any applicable employee handbook.
3. Form EGAD E1: Copyright Restriction Notice, shall be posted in an easily visible place near every school district copying machines.

B. Getting Permission to Copy Copyright Material(s)

1. When any school district employee determines that copyright permission is required for the copying and/or use of any material(s), it shall be that employee’s responsibility to insure that proper permission has been obtained

from the author/publisher of the material in question via written request utilizing LCPS Form EGAD E2: Request for Permission to Copy. Said written request shall contain the following specifics:

- a. the title, author(s), editor(s), publisher, producer(s) of the material(s).
- b. the edition, copyright and/or production of the material(s).
- c. the exact amount of material to be copied (chapter[s], page[s], etc.).
- d. the nature of the intended use of the material(s); for example, how many times it will be used, when it will be used, and with whom it be used.
- e. the number of the material(s) copies to be made.
- f. how the material(s) will be reproduced.

2. Printed Materials

- a. Permitted Uses. Researchers or educators preparing to teach a class may make or request a single copy of:
 - i. A chapter from a book.
 - ii. An article from a newspaper or periodical.
 - iii. A short story, essay or short poem.
 - iv. A chart, graph, diagram, cartoon, drawing or picture from a book, periodical or newspaper.
- b. Educators may make multiple copies of the following (should not exceed one copy per student in the classroom):
 - i. A complete poem (must be less than 250 words).
 - ii. An excerpt from a longer poem, not to exceed 250 words, or two printed pages, in length.
 - iii. A complete article, story or essay of fewer than 2,500 words.
 - iv. An excerpt from a larger printed work, not to exceed 10 percent of the whole or 1,000 words, whichever is less.
 - v. One chart, graph, diagram, cartoon or picture per book or issue of a periodical.

vi. An excerpt of not more than two of the published pages of a “special work” and containing not more than 10 percent of the words found in the text thereof. “Special works” are works with fewer than 2,500 words that combine language with illustration; for example, children’s books. Regardless of the limits established for prose or poetry, special works may never be reproduced in their entirety.

c. Prohibited Uses. Educators may not:

i. Copy more than one work or two excerpts from a single author during one class term.

ii. Copy more than three works from a collective work or periodical volume during one class term.

iii. Reproduce more than nine sets of multiple copies for distribution to students in one class term.

iv. Copy to create, replace or substitute for anthologies or collected works.

v. Copy “consumable” works.

vi. Copy the same work, term to term.

vii. Copy the same material for more than one course being offered in the school.

d. Alternate Option. When need dictates duplication and use of copyrighted material(s) beyond the scope of copying permitted by federal law and this regulation, educators may follow the guidelines in item III. B. 1. above in an effort to secure permission to copy and use copyrighted material(s). Form EGAD-E2: Request for Permission to Copy, may be utilized.

3. Software

A license giving an educator permission to use an item of copyrighted software must be in effect for any copyrighted software in use at any time on computers owned by the school district. A copy of that license shall be available for inspection. Most software licenses give permission to use the software on one computer at a time. Educators shall read the software’s copyright statement, understand and fully comply with the licensing restrictions printed there.

a. Permitted Uses. Generally, educators may:

i. Make a copy of an original computer program for archival (backup) purposes. Only one, the original or the copy, may be in use at any time.

- ii. Make a copy of a program as an essential step in using it, as long as it is used in conjunction with one computer and no other.
- iii. Make a new archival copy, in the event the copy in use is damaged.
- iv. Sign duplication rights, agreements or licenses with the author/publisher for software in use and shall become obligated to the terms of use of that agreement.
- v. Load a software program from a single disk into a distribution network or to individual stand-alone computers for simultaneous use when the distribution network is only accessible to the owner-user, if not otherwise prohibited by terms of its license.
- vi. Download, use and/or copy software or other information from an electronic bulletin board or on-line database, provided the author clearly gives permission to do so.

b. Prohibited Uses. An educator may not:

- i. Load the contents of one disk into multiple computers for use at the same time, or into a local network or into a disk-sharing system, in the absence of a license permitting a user to do so.
- ii. Make or use illegal copies of copyrighted programs on school district equipment.
- iii. Use or copy information contained in an e-mail message or an on-line database without obtaining the proper permission from its author.
- iv. Allow any student to use school district equipment in violation of Items i., ii. and/or iii. above.

c. Alternate Option. When need dictates duplication and use of copyrighted material(s) beyond the scope of copying permitted by federal law and this regulation, educators may follow the guidelines in item III. B. 1. above in an effort to secure permission to copy and use copyrighted material(s). Form EGAD-E2: Request for Permission to Copy, may be utilized.

4. Online Digital Media – Internet

Copyright related to the federal Digital Millennium Copyright Act to conform to United States copyright law, providing assurance that all kinds of copyright works remain available for fair use.

On-line service providers are exempt from copyright liability based solely on content transmission made by a user of the provider or carrier's system. All school district employees and students shall adhere to the school district's

Internet Acceptable Use Agreement policy and regulation (EJA/EJA-R). This procedure's accompanying form (EJA-E1) shall be signed annually and shall be on file with the employee's school principal or other immediate supervisor prior to the employee or student receiving school district permission to use any school district computer or Internet connection.

5. Visual Media (Including, but not limited to, films, videotapes and discs, filmstrips, overhead transparencies, slide programs)
 - a. The Copyright Act clearly permits the showing of a motion picture, videotape or similar copyrighted material(s) without an educational performance license, if all of the following conditions are met (Any other use of copyrighted material for entertainment or extracurricular purposes requires an educational performance license unless those rights were granted at the time of purchase):
 - i. The use takes place in areas designated for classroom instruction.
 - ii. Programs are shown as part of the instructional program and not for recreational or extracurricular use.
 - iii. Materials are used for face-to-face instruction.
 - iv. Note: In addition, the use must conform to building and Board policies regarding film use (see LCPS Policy 426: Sensitive Instructional Materials and Guest Speakers, and LCPS Policy IJL: Library Materials Selection and Adoption).
 - b. Permitted Uses. An educator may:
 - i. Use purchased or rented videotapes as part of a systemic course of instruction if said use is for face-to-face instruction and takes place in a classroom or similar area devoted to instruction.
 - ii. Use only lawfully made videotapes, which have been acquired through an authorized video distributor.
 - iii. Arrange for his/her school to transmit videotapes over closed-circuit television for face-to-face instruction.
 - iv. Make, or allow a student to make, a single copy of a small portion of a copyrighted visual work for legitimate scholarly or research purposes if the material is owned by the school district or by the school which the student is attending.
 - v. Create a slide or overhead transparency series from multiple sources, if no more than 10 percent of the series originates from one source, and the source does not forbid reproduction.

- vi. Create a single overhead transparency from a single page of a “consumable” workbook.
 - vii. Excerpt sections of a film for a local videotape (not to be shown over cable) or reproduce selected slides from a series if the excerpt does not exceed 10 percent of the total and does not excerpt the essence of the original work.
- c. Prohibited Uses. An educator may not:
- i. Use rented or purchased videotape(s) when a written contract specifically prohibits such use in a classroom or face-to-face teaching situation.
 - ii. Use rented or purchased videotapes for school assemblies, fundraising, entertainment, or other applications outside the scope of face-to-face instruction.
 - iii. Reproduce or copy an audiovisual work in its entirety.
 - iv. Convert one media format to another (e.g., film to videotape) unless prior written permission ~~is~~ has been obtained.
 - v. Copy any portion of visual media sent to or borrowed by the school for preview or rent, or owned by another school or institution, without the written permission of the copyright holder.
- d. Alternate Option. When need dictates duplication and use of copyrighted material(s) beyond the scope of copying permitted by federal law and this regulation, educators may follow the guidelines in item III. B. 1. above in an effort to secure permission to copy and use copyrighted material(s) Form EGAD-E2: Request for Permission to Copy, may be utilized.
6. Television (Off-Air Taping)

LCPS TV, which is owned and operated by the school district, operates videotape-recording services for the entire school district. It monitors standards for both owners and users in school district programming.

- a. Permitted Uses. An educator may:
- i. Record a broadcast program off-air simultaneously with a broadcast transmission, including cable or satellite, and retain the recording for a period not to exceed 45 calendar days after the date of broadcast. At the end of the 45 days, the recordings shall be promptly erased or destroyed. Persons wishing to retain said recording beyond the 45-day period shall complete LCPS Form EGAD-E3: Request for Off-Air Videotaping, and submit it to LCPS TV. Videotapes for commercial

programs may be retained only with written approval of appropriate copyright holders.

- ii. Use off-air recordings once for each class in the course of relevant teaching activities during the first 10 consecutive school days and repeat once only when instructional reinforcement is necessary. After the first 10 consecutive school days, the program shall only be used by teachers for evaluation purposes. These recordings may be shown in classrooms and similar locations which are devoted to instruction within a single building, cluster or campus, as well as in the homes of students receiving formalized home instruction.
 - iii. Use of off-air recordings as stipulated in this regulation shall be allowed only if the copies include the copyright notice on the broadcast program.
 - iv. Request that off-air recordings be made for fair use. These recordings may be made only at the request of, and for use by, individual teachers; they may not be recorded in anticipation of an educator's request. A limited number of additional copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional recording shall be subject to all provisions governing the original recording.
 - v. Request that a library record and retain, for research purposes, commercial television news programs from local, regional or national networks; interviews concerning current events; and on-the-spot coverage of news events. However, documentary, magazine-format and public affairs broadcasts are not included in the definition of daily newscasts of major events of the day. Requests for retention of programs recorded off-air should be directed to the producers of those programs directly through the network (not affiliate).
- b. Prohibited Uses. Educators may not:
- i. Tape off-air programs in anticipation of a future need.
 - ii. Request that a broadcast program be recorded off-air more than once, regardless of the number of times the program may be broadcast.
 - iii. Use a recording for instruction after 10 consecutive school days.
 - iv. Hold a recording for weeks or indefinitely because: (1) units needing the program concepts are not being taught within the 10-day use period; (2) an interruption or technical problem delayed its use; or (3) another educator wishes to use the recording for any other educational reason.

- v. Record programs off-air without written permission from the author/producer/distributor when a special notice is provided with the copyrighted material(s) specifically prohibiting reproduction of any kind.
 - vi. Alter off-air programs from their original content. Broadcast recordings may not be physically or electronically combined or merged to constitute teaching anthologies or derivative works. However, off-air recordings need not be used in their entirety.
 - vii. Exchange recording(s) with other schools in the school district or other school districts without approval of the Associate Superintendent for Instruction or his/her designee. Recording(s) shall be used for the specific curriculum for which the request was intended. No other curriculum application is authorized.
 - viii. Use a recording for public or commercial viewing.
- c. Alternate Option. When need dictates duplication and use of copyrighted material(s) beyond the scope of copying permitted by federal law and this regulation, educators may follow the guidelines in item III. B. 1. above in an effort to secure permission to copy and use copyrighted material(s). Form EGAD-E2: Request for Permission to Copy, may be utilized.
7. Radio (Off-Air Taping)
- a. Permitted Uses. An educator may:
 - i. Allow a student to make a single copy of a small portion of a copyrighted radio program for legitimate scholarly or research purposes. Such copy may not be sold or performed for profit.
 - ii. Copy radio broadcasts consistent with fair use guidelines established for off-air videotaping for use in face-to-face instruction. Contractual rights may entitle an individual to retain/use educational programs (i.e., those aired over National Public Radio, public broadcasting, etc.) beyond the fair use period. Rights to extend the 10-day use period or the 45-day retention/evaluation period (See Item III. B. 6. A. i. and ii. above) should be obtained in writing from the agency or individual holding distribution rights. Retention (not use) of recorded programs is permitted until additional rights are established.
 - b. Alternate Option. When need dictates duplication and use of copyrighted material(s) beyond the scope of copying permitted by federal law and this regulation, educators may follow the guidelines in item III. B. 1. above in an effort to secure permission to copy and use copyrighted material(s). Form EGAD-E2: Request for Permission to Copy, may be utilized.

8. Audio Recordings (Use and Copying)

Permitted Uses. An educator may:

- a. For academic purposes other than performance, make a single copy of a portion of a sound recording, provided that the portion does not comprise a part of the whole that would constitute a performable unit, and in no case is more than 10 percent of the whole work. This copy may be used only in the educational context in which it was made and may not be sold or performed for profit.
- b. Make a single copy of recordings of performances of copyrighted material(s) by students for evaluation or rehearsal purposes, which may be retained by the educational institution or individual teacher for such purposes.
- c. Make a single copy of the sound recording of copyrighted music or a portion thereof from sound recordings owned by an educational institution or an individual educator for the purposes of constructing aural (auditory) exercises or examinations and which may be retained by the educational institution or individual educator for such purposes.

9. Sheet Music

- a. Permitted Uses. Duplication of sheet music shall be acceptable only under the following conditions:
 - i. Emergency copies for an imminent performance, provided that copies of the sheet music or recorded music are purchased in a timely manner to replace the emergency copies.
 - ii. For academic purposes other than performances, single or multiple copies (one per student in a particular class) of excerpts not constituting an entire performance unit or more than 10 percent of the total work.
 - iii. Edited or simplified purchased sheet music, provided that the fundamental character of the work is not distorted; that lyrics, if any, are not altered; and that lyrics are not added.
- b. Prohibited Uses. An educator may not copy:
 - i. In order to replace or substitute for anthologies, compilations or collective works.
 - ii. From “consumable” works.
 - iii. For purposes of performance, except as noted in an emergency (see Permitted Uses above).

- iv. To substitute for the purchase of music.
- v. Without inclusion of copyright notice on the copy.
- c. Alternate Option. When need dictates duplication and use of copyrighted material(s) beyond the scope of copying permitted by federal law and this regulation, educators may follow the guidelines in item III. B. 1. above in an effort to secure permission to copy and use copyrighted material(s). Form EGAD-E2: Request for Permission to Copy, may be utilized.

10. Guidelines for School Libraries

The copyright law restricts reproduction of works for school libraries. Systemic duplication of multiple copies is forbidden by law except under these conditions:

- a. Permitted Uses. A school librarian may:
 - i. Arrange for interlibrary loans of photocopies of works requested by patrons, provided that copying is not done to substitute for purchasing or subscribing to a work.
 - ii. Within a calendar year, make for a requesting entity, up to five copies of any article or articles published in a given periodical within the last five years prior to the request for the material.
 - iii. Make single copies of articles or excerpts of longer works for a student making a request, provided the material becomes the sole property of the student for private study, scholarship or research.
 - iv. Make a copy of an unpublished work for purposes of preservation, or of a published work to replace a damaged copy, or of an out-of-print work that cannot be obtained at a fair price.
 - v. Make off-the-air tape recordings of daily television news broadcasts for limited distribution to researchers and scholars for research purposes.
 - vi. In accordance with fair use, and for purposes of preservation or security, make one copy of a musical work, pictorial, graphic, sculptural work, motion picture or other audio-visual work, if the current copy owned by the school library is damaged, deteriorated, lost or stolen and an unused copy cannot be obtained at a fair price.
- b. Prohibited Uses. A school librarian cannot:
 - i. Make copies for students if there is reason to suspect that the students have been instructed to obtain copies individually (in order to circumvent other copyright procedures).

- ii. Copy without including a notice of copyright on the reproduced material.
- c. Alternate Option. When need dictates duplication and use of copyrighted material(s) beyond the scope of copying permitted federal law and this regulation, educators may follow the guidelines in item III. B. 1. above in an effort to secure permission to copy and use copyrighted material(s). Form EGAD-E2: Request for Permission to Copy, may be utilized.

11. Administrators' Responsibilities

- a. The site administrator (i.e., the school principal) or his/her designee shall have responsibility for the establishment of practices which will enforce the provisions of this regulation. The site administrator or his/her designee shall:
 - i. Maintain a depository for license of software in use in his/her building.
 - ii. Ensure that LCPS Form EGAD-E1, Copyright Restriction Notice, is posted prominently near each copying machine in the building.
 - iii. Provide written guidelines for faculty and staff regarding this regulation and ensure that said guidelines are read, understood and followed. This is to include notification or training of all faculty and staff members of the applicability of this Regulation to information and documents downloaded and/or printed from school district computers.
- b. The school district shall insure that information about and training on this policy and regulation and U.S. copyright laws are provided to all new school district employees at the time of their initial employment.

History: Formerly Procedure 475, Revised 09.19.00, 04.07.10

Legal Reference: Title 17, U.S. Code and the Digital Millennium Copyright Act



Associate Superintendent for Instruction

June 15, 2010

Date Approved