

## 1.0 Purpose

These regulations establish procedures for implementing District policy concerning the copyrighting, publishing, and ownership of materials developed by District employees or the District itself and provide guidelines for the use of copyrighted materials in compliance with Federal law.

## 2.0 Definitions

- 2.1 Fair use is defined as the use of copyrighted materials for purposes of criticism, comment, news reporting, teaching, scholarship or research. This is not an infringement of copyright. The existence of such purpose is not, by itself, sufficient to sustain a claim that the use is fair. Specific facts to be considered are as follows: (17 USC, Section 107)
  - 2.1.1 The purpose and character of the use, including whether it is of a commercial character or is for non-profit educational purposes;
  - 2.1.2 the nature of the copyrighted work;
  - 2.1.3 the amount and substantiality of the portion used in relation to the work as a whole;
  - 2.1.4 the effect of the use upon the potential market for, or value of, the copyrighted work.
- 2.2 Copyright notice consists of the following:
  - 2.2.1 The word "copyright", the abbreviation "copr.", or the symbol "©";
  - 2.2.2 the name of the copyright owner;
  - 2.2.3 the year of publication.
- 2.3 Computer programs are classified as "literary works." As such, they are covered under copyright protection (17 USC, section 101). Copyright extends to computer programs in source code as well as object code. Even though the copyright notice is not displayed, a computer program may still be under copyright protection.

## 3.0 Collection and Use of Fees

- 3.1 The Administrative Services Office will collect all fees related to the dissemination of copyrighted and non-copyrighted materials, including cost-covering charges for materials in the public domain, costs affixed to District copyrighted materials, and royalties.

#### 4.0 Publication and Copyright of Independently Developed Material

- 4.1 Employees using District resources to develop independently materials subject to copyright are responsible for notifying the Administrative Services Office during the initial development phase. Written agreements between the employee and the District, defining whether or not the District will be affiliated with the project, the use of District staff and resources, ownership rights, and financial arrangements, including royalties, will be negotiated on an individual basis.
- 4.2 For works copyrighted in their own names, District faculty and staff are personally responsible for overseeing publication, preparing the necessary forms, paying filing fees, and submitting registration applications except as otherwise provided in written agreements developed in accordance with 4.1 above.

#### 5.0 Publication and Copyright of District-Developed Materials

- 5.1 The Administrative Services Office is the District Office of record for copyright registration forms and related records. Requests for the use of District copyrighted materials outside of the District shall be processed by the Administrative Services Office, including the collection of fees as described in 3.0 above.
- 5.2 When a work is copyrighted in the District's name, the following provisions apply:
  - 5.2.1 The copyright notice should include both the word "copyright" and the symbol "©;" the legal corporate name of the District; and the date copyrighted: "Copyright © Los Rios Community College District 1992".
  - 5.2.2 The person in charge of producing the copyrightable work should obtain the appropriate application form from the Administrative Services Office and return the completed form for signature along with two copies of the material. Final processing and submittal will be handled by the Administrative Services Office.

#### 6.0 Guidelines for Observing Copyright Protections

- 6.1 Single copies
  - 6.1.1 Single copies may be made of printed materials for purposes of criticism, comment, teaching, scholarship, or research as follows: (17 USC, Section 107)
    - 6.1.1.1 A chapter of a book;
    - 6.1.1.2 an article from a periodical or a newspaper;
    - 6.1.1.3 a short story, a short essay, or a short poem;

6.1.1.4 a chart, a graph, a diagram, a drawing, a cartoon or a picture from a book, a periodical, or a newspaper;

6.1.1.5 a single copy of an entire performable unit of music that is confirmed by the copyright owner to be out of print or that is unavailable except in a larger work, when made for academic purpose other than performance and solely for the teacher's research or class preparation.

## 6.2 Multiple copies

6.2.1 Multiple copies, not to exceed one (1) copy per student, may be made for or by an instructor for classroom use, provided that:

6.2.1.1 Each copy carries the copyright notice;

6.2.1.2 the copying is not used to substitute for the purchase of printed materials;

6.2.1.3 the copying is not used to create or substitute for anthologies or other collective works;

6.2.1.4 the copying is not from works described as "consumable" such as workbooks, standardized tests, test booklets, answer sheets, etc.; and

6.2.1.5 the copying meets the tests for brevity, spontaneity, and cumulative effect.

6.2.1.5.1 Brevity:

- a) Poetry - A complete poem if less than 250 words or an excerpt of not more than 250 words.
- b) Prose - A complete article, story, or essay if less than 2,500 words or an excerpt from a longer work if not more than 1,000 words or 10 percent (10%) of the work.
- c) Illustration - One (1) chart, graph, diagram, drawing, or picture per book or periodical issue.
- d) Printed music - Excerpts of works for academic purposes other than performance, provided they do not compromise a performable unit such as selection, movement, or aria or exceed 10 percent (10%) of the total work.

6.2.1.5.2 Spontaneity:

- a) The copying is at the inspiration of an individual instructor and not directed by a higher authority.
- b) The decision to use to work and the moment of maximum effectiveness are so close in time as to make it unreasonable to request permission for use.

6.2.1.5.3 Cumulative Effect:

- a) The copying is for only one (1) course and is not repeated by the same instructor from term to term.
- b) The copying does not exceed one (1) short poem, article, essay; two (2) excerpts from the same author; no more than three (3) excerpts from the same collective work during one (1) class term.
- c) Such multiple copying does not exceed nine (9) instances in one (1) class term.

6.2.1.6 The copying of printed music for purposes of performance is not allowed except that emergency copying may be done to replace purchased copies which are not available for an imminent performance, provided replacement copies are ordered promptly.

6.3 Reproductions by Libraries and Archives (17 USC, Section 108)

- 6.3.1 A library or its employees may reproduce not more than one (1) copy of a work or phonorecord, provided:
  - 6.3.1.1 The copy is made without any purpose of direct or indirect commercial advantage;
  - 6.3.1.2 the library is open to the public;
  - 6.3.1.3 the copy carries a notice of copyright;
  - 6.3.1.4 the copy carries the following warning: "This material may be protected by copyright laws (Title 17/US Codes)".
- 6.3.2 Archival reproduction permits a facsimile copy, solely for the purpose of preservation and security. This right extends to photographs, phonorecords, and motion pictures.
- 6.3.3 Replacement of damaged copy authorizes a facsimile copy of a published work solely for the purpose or replacement of a damaged, deteriorating, lost, or stolen copy if after a reasonable effort the library determines a replacement cannot be obtained at a fair price.

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- 6.3.4 Article and small excerpts are authorized to be copies of not more than one article or other contribution of a periodical or a small part of any copyrighted work if copied. This copy must become the property of the user. The library must display a warning that copies are made in accord with the regulations of the Register of Copyrights.
- 6.3.5 Out-of-print works may be copied if it is established that a copy cannot be found at a fair price, but every effort should be made to locate a copy. The copy must become the property of the user, and copies must display a warning that copies are made in accordance with the regulations of the Register of Copyright.
- 6.3.6 Making copies to fill interlibrary requests is not permitted if this copying is done in such "aggregate quantities as to substitute for a subscription to, or purchase of, such work". This phrase is interpreted to mean:
- 6.3.6.1 Requests within a calendar year for six (6) or more copies of an article or articles published within five (5) years in any given periodical;
- 6.3.6.2 requests within a calendar year for a total of six (6) or more copies or phonorecords from any given work.
- 6.3.7 All requests must carry a representation from the requesting library that the request conforms to the guidelines.
- 6.3.8 District libraries will maintain records of all incoming and outgoing requests for three (3) calendar years.
- 6.4 Provisions Regarding Performances and Display
- 6.4.1 Performance or display of a work in the course of face-to-face teaching activities in a non-profit educational institution is not an infringement of copyright. (17 USC, Section 110)
- 6.4.2 Performance of non-dramatic literary or musical work transmitted by instructional broadcasting is not an infringement of copyright when:
- 6.4.2.1 The performance is a regular part of instructional activities;
- 6.4.2.2 the performance is directly related to the teaching content;
- 6.4.2.3 the transmission is to classrooms, to disabled people unable to go to a classroom, or to officers and employees of governmental bodies as part of their official duties.
- 6.4.3 Slides, Video and Radio Tapes, Films, Sound Recordings, Dramatic Works, Pantomimes, etc.:

6.4.3.1 A single copy of recordings of musical and dramatic performances by students may be made for evaluation and may be retained by the instructor.

6.4.3.2 A single copy of a sound recording of copyrighted music may be made from sound recordings owned by the college or the instructor for the purpose of constructing aural exercises or examinations. (This pertains to copyrighted music and not to the copyright of the sound recording.)

## 6.5 Prohibited Uses

6.5.1 Staff shall comply with standard copyright uses. Displays and performances of audiovisual works are prohibited in nonprofit educational institutions when:

6.5.1.1 They are used for entertainment, recreation, or even for their cultural or intellectual value but are unrelated to teaching activity.

6.5.1.2 They are shown in an auditorium or stadium before an audience not confined to students, such as a sporting event, graduation ceremony, or community lecture or arts series.

6.5.1.3 They involve an illegally-acquired or duplicated copy of the work.

## 6.6 Royalties:

6.6.1 Under the Copyright Act of 1976 which repealed the not-for-profit exemption for performances of musical works, colleges and owners of facilities will be liable for royalty payments on all music played when the performer is compensated. In addition, institutions may also be liable for royalties on music performed either live or on record when there is an admission charge to the event.

6.6.1.1 Executing music licensing agreements shall be the responsibility of each College and shall be administered by the Chief Administrative Officers including the filing of reports as may be required by the licensing contracts.

## 7.0 Use of Copying Machines and Services

7.1 To eliminate District liability, all unsupervised copying machines shall be labeled with the following notice: "Notice: The copyright law of the United States (Title 17 U.S. Code) governs the making of (photo) copies of any copyrighted material. The person using this equipment is liable for any infringement".

7.2 The District may be held liable for infringement of copyrights resulting from copying performed in its staffed duplicating centers. Therefore, initial clearance authority for questionable requests for copies of copyrighted materials lies with

the administrative head of the campus duplicating center. Decisions by this supervisor may be appealed by the faculty or staff member to the vice president of instruction who shall make a final decision.

## 8.0 Guidelines for Using Computer Programs

- 8.1 A district employee shall observe copyright protection when using a computer program(s) whether a program bears a copyright mark or not, unless it is marked as a public domain program.
- 8.2 A district employee using a computer program purchased under a license agreement, shall read and follow conditions and restrictions stipulated in the license agreement. In general, the conditions and restrictions of the license agreement may stipulate the following:
  - 8.2.1 The computer program is covered by copyright; the original will be stored in the archive and the backup copy is used.
  - 8.2.2 A copy of the computer program is allowed only for archival purpose; the original will be stored in the archive, and the back-up copy is used.
  - 8.2.3 Modifications to the computer program are not allowed;
  - 8.2.4 Decompiling (i.e., reverse engineering) of the program code is not allowed without the permission of the copyright owner;
  - 8.2.5 Development of new works built upon the original work (derivative work) is not allowed without the permission of the copyright owner;
  - 8.2.6 Installation of the computer program is only allowed on a type of system (i.e., stand-alone or network server) and/or a specific computer(s).
- 8.3 A district employee shall not make a copy of a computer program for use other than as specifically permitted under the license agreement or a copyright protection. Lack of a copyright protection does not constitute permission to copy without the permission of the copyright owner. An exception is the PUBLIC DOMAIN program.
- 8.4 A district employee shall exercise caution in applying the "fair use" amendments to the copyright law that is intended to allow educational use of legally-protected products. For most computer programs, it is clearly illegal to make and distribute unauthorized, fully-functional copies to class members for their individual use. When the use of the computer program is in doubt, a district employee will check with the copyright owner or consult the appropriate District authorities before use.

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Adm. Regulation Revised: 2/4/81; 6/16/82; 11/10/92; 9/12/03

EXPENDITURES

Development and Copyright of R-8333  
Materials

Business Services

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Board Policy: [P-8333](#)