

EAST STROUDSBURG AREA SCHOOL DISTRICT

NO.: 814
SECTION: OPERATIONS
TITLE: COPYRIGHT POLICY
ADOPTED: August 19, 2002
REVISED: December 17, 2007
1st READ: August, 2014

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814. COPYRIGHT POLICY

1. Purpose

U.S. Constitution, Article I, Sec. 8, Clause 8; 17 U.S.C. Sec. 101 et seq.; 17 U.S.C. § 1201 et seq.

The East Stroudsburg Area School District (“School District”) recognizes that the Federal Constitution grants authors and creators certain rights to protect their property as a means of promoting and advancing knowledge, and that Congress enforces these rights through U.S. Copyright Law. In addition, Congress has enacted The Digital Millennium Copyright Act (DMCA) providing for limitations on infringement liability for educational institutions that are “service providers”, for preventing the circumvention of technological protection measures, for promoting distance learning through digital technologies, and for maintaining and developing digital libraries to accommodate digital technologies and evolving preservation practices.

At the same time, the School District recognizes that Congress and the courts have provided that sometimes reproducing, publishing, displaying, distributing, or performing someone else’s work is not harmful to that person and that using the work is an important part of public discourse. Therefore, special exceptions from liability are permitted when:

- (1) Prior permission is granted from the Copyright Owner,
- (2) A license agreement has been executed,
- (3) The conditions for statutory and other limitations on exclusive rights of copyrighted works are met, such as ~~principles related to:~~
 - (a) Fair use principles,
 - (b) Reproductions by librarians,
 - (c) Performances and/or displays,
 - (d) The TEACH Act, and

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(e) Computer programs, ~~and~~

(4) The conditions for exceptions from violations of the DMCA are met.

2. Definitions

Copyright protection applies to original works of authorship fixed in a tangible medium of expression that can be perceived, reproduced, or communicated, either directly or with the aid of a machine or device. The works include the following categories: (1) literary works, (2) musical works, including any accompanying words, (3) dramatic works, including any accompanying music, (4) pantomimes and choreographic works, (5) pictorial, graphic and sculptural works, (6) motion pictures and other audiovisual works, (7) sound recordings and (8) architectural works. Copyright protection extends to most computer software, which is typically protected as a literary work. The author of a work of “visual art” may have the rights of attribution and integrity.

Copyright does not protect ideas, procedures, process, systems, methods of operation, concepts, principles, or discoveries, regardless of the form in which it is described, explained, illustrated, or embodied in the work.

Exclusive Rights granted solely to the Copyright owner include the right to:

- (1) reproduce the copyrighted work in copies or phonorecords;
- (2) prepare derivative works based upon the copyrighted work;
- (3) distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- (4) in the case of a literary, musical, dramatic, and choreographic works, pantomime, and motion pictures, or other audiovisual works, to perform the copyrighted work publicly;
- (5) in the case of a literary, musical, dramatic, and choreographic work, pantomime, and pictorial, graphic, sculptural work, including the individual images of a motion picture or other audio visual work, to display the copyrighted work publicly; and
- (6) in the case of sound recordings to perform the work publicly by means of digital audio transmissions.

3. Delegation of Responsibility

The Superintendent shall provide an *East Stroudsburg Area School District Copyright Guidelines Handbook* for employees, students, guests, visitors and independent contractors to guide them in compliance with copyright statutes, regulations, laws and this Policy. In addition, the Superintendent, or designee(s),

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shall provide ~~for the~~ training for employees and ~~instructional sessions for students~~ ~~the employees shall provide instruction to those with whom the employees work~~ ~~(for example, if applicable, students, and others)~~ to assist them in complying with copyright requirements. The *Copyright Guidelines Handbook* shall include, but not be limited to, legal requirements of The Copyright Act, including The TEACH ACT, ~~and~~ the DMCA, ~~and mash-ups and remixes.~~

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It shall be the responsibility of the Superintendent and/or designee and Director of Instructional Technology to provide leadership for proper training and for enforcement of the Copyright Act, DMCA, this Policy and the requirements provided in the *Copyright Guidelines Handbook*.

4. Guidelines

Federal laws, cases, and guidelines pertaining to copyright will govern the use of material accessed through the School District resources. Users must make a standard practice of requesting permission from the holder of the work, or their agent, ~~and~~ complying with license agreements pursuant to the School District's procedures, ~~and legally use fair use principles.~~ Employees ~~will must~~ instruct ~~those with whom they work, for example,~~ students, to respect copyrights, request permission when appropriate, comply with contracts and license agreements, ~~and legally use fair use principles.~~ Employees will respect and comply as well.

Employees and others with whom they work who use digital multimedia projects, including remixes and mashups, must use material that: (1) they have been given permission to use by the copyright owner and the School District; (2) have been authorized to use though a license; (3) is not protected by copyright, or (4) that a statutory limitation or an exemption is applicable to the School District. Material that is not protected by copyright includes media that is in the public domain, media that is not subject to copyright protection, and media that is subject to certain Creative Commons licenses. Use of copyrighted material may be available under provisions of the fair use doctrine under certain circumstances.

Violations of copyright law can be a felony and the law allows a court to hold individuals personally responsible for infringing the law. The School District does not permit illegal acts pertaining to the copyright law. Therefore, any user violating the copyright law does so at his/her own risk and assumes all liability.

Violations of copyright law include, but are not limited to, the making of unauthorized copies of any copyrighted material (such as commercial software, ~~text~~ -textual works, graphic images, audio and video recording), distributing ~~unauthorized~~ copyrighted materials over computer networks, unauthorized downloading of music and movies, and deep-linking and framing into the content of others' web sites. Finally, employees and ~~students~~ ~~others with whom they work~~ may not circumvent technological protection measures, unless permitted by law.

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If anyone, including but not limited to employees, students and guests, suspects or becomes aware of a copyright violation it must be reported to the Superintendent, or designee, immediately.

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Further Reference: *East Stroudsburg Area School District Copyright Guidelines Handbook*
East Stroudsburg Area School District Acceptable Use Policy #815
17 U.S.C. § 101 et seq.
17 U.S.C. § 1201 et seq.