



POLICY 8.121

5-C I recommend that the Board approve development of the proposed revised Policy 8.121, entitled "Use of Copyrighted Material."

[Contact: Meezie Pierce, PX 45114.]

Development

CONSENT ITEM

- This proposed revision provides guidelines for the fair use of copyrighted information that is used for educational purposes in accordance with the Copyright Act of 1976, Title 17 of the United States Code, and the Digital Millennium Copyright Act of 1998.
- Employees and students are prohibited from the use or duplication of any copyright materials not allowed by copyright law, "fair" use guidelines, licenses or contractual agreements. Where there is reason to believe the material does not fall within the fair use guidelines, there is no license agreement, or there is no contractual agreement, employees are required to obtain permission of the owner of the works prior to the use of the copyrighted materials.
 - The policy advises employees that they may be liable for copyright infringement if they violate copyright laws and fail to obtain prior written permission for the reproduction or use from the copyright holder or fail to abide by the "fair use" guidelines.
 - It is further provided that the School Board will not assume responsibility for actions of an employee or student who has willfully contravened this policy. If there is a finding of willful infringement by an employee, the School Board is precluded from paying any judgment rendered against the employee and the paying of attorney's fees or costs which the employee would incur in conjunction with a lawsuit and may render the employee liable to the School Board for any damages which the School Board is liable to pay.
 - An employee willfully violating the copyright laws may be subject to discipline by the Board.
- The superintendent or designee is required to file with the Copyright Office of the Library of Congress, and post the same information on the district's web site, his or her designation as the district's agent, in the district's role as an internet service provider, to receive notifications of any claims that users of the district's Internet network have infringed copyright law. The superintendent or designee shall be responsible for investigating and responding to any complaints related to the infringement of copyright laws.

POLICY 8.121

USE OF COPYRIGHTED MATERIALS

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3 1. **Purpose.** To provide guidelines for the fair use of copyrighted information that is
4 used for educational purposes in accordance with the Copyright Act of 1976, Title
5 17 of the United States Code, and the Digital Millennium Copyright Act of 1998.
6 P.L. 105-304.

- 7 2. **Policy.** The School Board expects all employees, volunteers and students to
8 adhere to all pertinent copyright laws and “fair use” guidelines which cover the
9 reproduction, distribution, and use of print resources, music, recordings, theatrical
10 performances, computer software, television and video resources, and online and
11 electronic resources and licensing. Employees and students are prohibited from
12 the use or duplication of any copyright materials not allowed by copyright law, “fair
13 use” guidelines, licenses or contractual agreements. Where there is reason to
14 believe the material does not fall within the fair use guidelines, there is no license
15 agreement, or there is no contractual agreement, prior permission shall be
16 obtained. At no time shall it be necessary for an employee to violate copyright laws
17 in order to properly perform his or her duties.
 - 18 a. Employees who violate copyright laws and who fail to obtain prior written
19 permission for said reproduction or use from the copyright holder or who fail to
20 abide by the ‘fair use” guidelines may be liable for copyright infringement.

 - 21 b. In the event of litigation resulting from copyright violation, the School Board will
22 not assume responsibility for actions of an employee or student who has
23 willfully contravened this policy. A finding of willful infringement will preclude
24 the School Board paying any judgment rendered against the employee and
25 the paying of attorneys fees or costs which the employee would incur in
26 conjunction with a lawsuit and may render the employee liable to the School
27 Board for any damages which the School Board is liable to pay.

 - 28 c. Employees who willfully infringe upon copyright laws may be subject to
29 disciplinary action by the Board.

- 30 3. **Fair Use Principles.** Under the fair use doctrine, copyrighted materials may be
31 reproduced without authorization for the purposes of criticism, comment, news
32 reporting, teaching (including multiple copies for classroom use), scholarship, or
33 research following these general guidelines:
 - 34 a. *PURPOSE AND CHARACTER OF THE USE.* The use must be for such
35 purposes of teaching or scholarship and must be nonprofit, not commercial.

 - 36 b. *NATURE OF THE COPYRIGHTED WORK.* Staff may make *single* copies of:

37 a chapter of a book for such use as instruction, preparation for teaching or
38 research; an article from a periodical or newspaper; a short story, essay or
39 poem and a chart, graph, diagram, drawing, cartoon or picture from a book,
40 periodical or newspaper.

41 c. AMOUNT AND SUBSTANTIALLY OF THE PORTION USED. Copying the
42 whole of a work cannot be considered fair use; copying a small portion may be
43 considered fair use if appropriate guidelines are followed. The amount and
44 substantiality of the portion used must be reasonable

45 d. EFFECT OF THE USE UPON THE POTENTIAL MARKET FOR OR VALUE
46 OF THE COPYRIGHTED WORK. If resulting economic loss to the copyright
47 holder can be shown, making even a single copy of certain materials may be
48 an infringement; and making multiple copies presents the danger of greater
49 penalties. Thus, the potential market value of the work should not be affected.

50 4. Fair Use for Education Multimedia. The 1994 Conference on Fair Use (CONFU)
51 developed guidelines to determine fair use portions of copyrighted works in
52 educational multimedia projects. The following limitations restrict the portion of any
53 given work that may be used pursuant to fair use in an educational media project.

54 a. Motion Media: Up to 10% or 3 minutes whichever is less

55 b. Text Material: Up to 10% or 1000 word whichever is less

56 c. Poem: An entire poem with less than 250 words but no more than 3 poems by
57 same author and 5 poems by different authors For poems greater than 250
58 words, excerpts of up to 250 words may be used, but no more than three
59 excerpts from one poem or five excerpts from an anthology

60 d. Music Lyrics Music Video: Up to 10% of an individual work but no more than
61 30 seconds per event. No alterations that change the basic melody or
62 fundamental character of the work

63 e. Illustrations and Photographs: Up to 5 images by an artist or photographer
64 may be reproduced or incorporated and no more than 10% or 15 images
65 whichever is less from a published collective work

66 f. Numerical data sets: Up to 10% or 2500 fields or cell entries, whichever is
67 less, from a copyrighted data table

68 5. Responsibilities of Employees.

69 a. Responsibilities of Teachers and Other Users. Teachers, librarians and other
70 users of copyrighted materials are responsible for the following:

- 71 i. Review and compliance with this policy and the fair use guidelines.
- 72 ii. Use and copying of copyrighted materials only with permission, except
73 as provided in the fair use guidelines.
- 74 b. School Site and Site-Based Responsibility. The principal of each school and
75 each site-based administrator is responsible for the following:
- 76 i. Provision of information to employees and students, if applicable,
77 regarding the legal, ethical and practical problems caused by copyright
78 infringement.
- 79 ii. Establishing practices that will enforce this policy.
- 80 iii. Ensuring reproduction equipment (photocopiers and computers are
81 labeled with warnings that reproduction is not permitted without
82 permission from the copyright owner or authorized agent.
- 83 c. Print Shop or School Library Media Centers. No copyrighted materials will be
84 reproduced by the School District Printing Services or school library media
85 centers unless accompanied by a signed authorization from the copyright
86 owner or authorized agent or a statement of educational fair use signed by the
87 responsible instructional employee for one or more of the purposes allowed
88 under Section 107, U.S. Code. All requests for reproduction by Printing
89 Services of copyrighted materials shall be submitted to Printing Services by:
- 90 i. The principal or his/her designee at a school center;
- 91 ii. The appropriate division or area superintendent; or
- 92 iii. A member of the Superintendents Leadership Team.
- 93 6. **Federal Copyright Office Filing.** The superintendent or designee shall file with
94 the Copyright Office of the Library of Congress, and post the same information on
95 the district's web site, his or her designation as the district's agent, in the district's
96 role as an internet service provider, to receive notifications of any claims that users
97 of the district's Internet network have infringed copyright law. The superintendent or
98 designee shall be responsible for investigating and responding to any complaints
99 related to the infringement of copyright laws.
- 100 7. **Implementation of Policy.** The superintendent is responsible for implementing
101 this policy and any accompanying administrative guidelines including the copying
102 and distribution of copyrighted materials for instructional purposes and for the
103 appropriate use of copyrighted materials on the School Board's website.
- 104 Use and reproduction of copyright materials shall be carried out in accordance with

105 ~~applicable federal and state laws and rules.~~

106 ~~Approval of an entrance into copyright agreements shall rest with the~~
107 ~~Superintendent or designee(s).~~

108 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41; 1001.43; 17 U.S.C. 101 et seq; (P.L.
109 94-553, 90 STAT 2541) ~~230.03; 230.22(2)~~, FS

110 LAWS IMPLEMENTED: ~~230.23(7)~~, FS

111 HISTORY: New: 08/01/84; Revised ___/___2009

Legal Signoff:

The Legal Department has reviewed proposed Policy 8.121 and finds it legally sufficient for development by the Board.

Attorney

Date