



**WINDHAM SCHOOL
DISTRICT**

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**SUPERSEDES: OP-09.20
September 1, 2001**

OPERATING PROCEDURES

SUBJECT: INSTRUCTIONAL USE OF AUDIOVISUAL MEDIA

AUTHORITY: Texas Education Code Chapter 19; Copyright Act of 1976, 17 U.S.C. § 110, et seq.

APPLICABILITY: Windham School District (WSD)

POLICY:

The use of audiovisual media shall be permitted in WSD classrooms, on a limited basis, to effectively supplement instruction in the classroom. It is the intent of the WSD to adhere to the provisions of the U.S. Copyright Law. WSD employees are prohibited from copying materials in any format not specifically allowed by the copyright law, fair use guidelines, licenses or contractual agreements, or other permission.

DEFINITIONS:

“Audiovisual Media” consists of a series of related images intended to be shown by the use of devices such as projectors, viewers, or electronic equipment (i.e., dvd, vcr tapes, or any form of media or electronic storage that has a copyright).

DISCUSSION:

Subject to certain specific exceptions outlined below, the owner of a copyright has the exclusive rights to reproduce, distribute, perform, or display the copyrighted work, or to authorize such reproduction, distribution, performance, or display by others. An exception to the exclusive rights enjoyed by copyright owners is the doctrine of fair use. The fair use of a copyrighted work for purposes of teaching, scholarship, or research is not an infringement of copyright.

PROCEDURES:

I. Educational Fair Use Exemption

A. The following factors shall be considered in determining fair use:

1. The purpose and character of the use, including 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 work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.

B. Guidelines

Employees who wish to use copyrighted material shall follow the guidelines set forth in this OP. These guidelines establish a minimum guaranteed fair use, not a maximum. Any use which falls within these guidelines is a fair use; any use which exceeds these guidelines shall be judged by the four factors stated above and may be subject to challenge. Ultimately, any determination regarding whether a use which exceeds the guidelines is a fair use shall rest with an appropriate court of law.

C. Performance or Display of a Work in Schools

The law provides a type of “fair use” exemption for performance or display of a work in schools; however, four requirements must be met before a performance is considered acceptable under this education exemption to the public performance restriction:

1. The performance must take place in a classroom or other place of instruction in a non-profit education institution;
2. The performance must be directed by teachers or students of the institution;
3. The performance must occur in the course of face-to-face teaching activities; and
4. The performance must be of a legally acquired copy of the work.

“Teachers” and “students” refer to those teachers and students enrolled in that particular class.

II. Selection and Use of Audiovisual Media

- A. The selection and use of audiovisual media shall be guided by the following criteria:
1. The audiovisual media shall be directly related to attainment of specific instructional objectives/goals. The display of the work must be related to the lesson at hand, not simply related to some type of lesson past or a lesson to come. It is not appropriate to show audiovisual media based on loose or questionable links from audiovisual media to lessons (e.g., showing *The Lion King* during a study of Africa is not a reasonable tie-in).
 2. The audiovisual media shall be appropriate for use in a secure, correctional environment (e.g., does not attempt to stimulate sexual response; does not glorify crime or violence; is not provocative or inflammatory).
 3. The audiovisual media shall be appropriate in length (typically no more than 45 minutes), taking into account both class schedule and instructional environment
 4. The use of audiovisual media shall comply with guidelines required by law.
 5. The principal, as the instructional leader of the school, shall approve all audiovisual media prior to instructional use in the classroom. The principal may develop and require the use of an approval form for audiovisual media use by the teacher and may require the form to be visible during showing.
- B. Classroom use of audiovisuals for entertainment or reward is specifically prohibited under fair use. Audiovisual media shall not be used to reward students (e.g., for attendance, good behavior, days before holidays).
- C. Despite the fact that audiovisual media may have cultural value, showing it to a class without a direct link to a specific curricular objective is not permitted under the face-to-face rule.
- D. Motion pictures made for entertainment purposes shall not be shown. Attorneys for the major motion picture studios have notified TDCJ that they are not permitted to show motion pictures to prison inmates without authorization from the copyright owner (the motion picture production and distribution company). While WSD is a separate educational entity, it is not a public school district. WSD schools are located inside prison facilities. Therefore, WSD must be sensitive to the issue and ensure that we do not cause legal problems for TDCJ.
- E. For school use, programs may be taped over the air (i.e., from regular broadcast channels). Broadcast channels are those VHF and UHF channels one receives via a regular television antenna. However, there are no fair use rights for those same channels received via cable or satellite. Any program broadcast by cable or

satellite may not be taped for school use without the specific permission of the copyright holder and the source provider. Any WSD request for such permission shall originate from the director of the Division of Instruction.

1. Copies taped over the air must include all copyright information, usually included in the credits at the end of the program. The program itself must not be edited or altered from its original content. The same teacher may not tape, or request to be taped, the same program multiple times; no matter how many times the program is broadcast.
2. A limited number of copies may be reproduced from each over the air recording to meet the needs of teachers.
3. A recorded program may be kept for a maximum of 45 consecutive days.
 - a. Of those 45 days, students may view the program only during the first 10 school days.
 - b. The program may be viewed once for instruction and once for reinforcement. No other viewings are allowed under the fair use guidelines.
 - c. During the remaining 35 days of the 45-day period, the program may be used only for evaluation of the program by teachers.
 - d. The recording must be erased or destroyed at the end of the 45-day period. The program may be retained beyond the 45-day period only if explicit, written permission has been received from the copyright holders.
 - e. The 10/45-day rules apply, no matter who records the program or where it is recorded.
4. If a principal allows a teacher to show an over the air recording, he/she is responsible for:
 - a. Previewing the taped program to ensure that it is educationally appropriate;
 - b. Ensuring that no inappropriate commercials or additional programs have been recorded on the tape;
 - c. Ensuring that it ties directly to an appropriate lesson; and
 - d. Ensuring that the teacher understands and abides by the 10/45-day rule.

III. Compliance Monitoring

The Division of Operational Support shall monitor compliance with this policy as part of the Operational Review process.

* Signature on file

Marjie Haynes

Director, Division of Instruction