



Book AG 1st Draft Clean
Section 2000 Program
Title RESOURCE SPEAKERS
Number ag2521C
Status Proposed to Policy & Human Resources Committee

2521C - RESOURCE SPEAKERS

Teachers are encouraged to invite guest lecturers to discuss a particular subject with their students under the following conditions:

- A. The subject is of educational relevance and value to the students in that class.
- B. The subject is presented in an unbiased or unprejudiced manner. (Speakers representing several sides of an issue may be used.)
- C. The speaker(s) will not tend to disrupt the educational program.
- D. The information to be discussed is appropriate for the age and maturity of the students.
- E. Any speaker addressing a subject related to the District's program on health shall meet the guidelines established for that program. (See Policy 2413 and Policy 2414)
- F. The teacher shall remain in the classroom during the entire presentation to provide for appropriate follow-up.

The principal shall approve the visits of all guest speakers.

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Book	AG 1st Draft Clean
Section	2000 Program
Title	STUDENT USE OF LIBRARIES/MEDIA CENTERS
Number	ag2522
Status	Proposed to Policy & Human Resources Committee

2522 - **STUDENT USE OF LIBRARIES/MEDIA CENTERS**

Libraries and media centers have been established primarily to enrich the education of students and to help them learn how to make effective use of reference and enrichment materials. The cost of such centers can only be justified when the following conditions exist:

- A. The centers are open and available to students for as much of the school day as staffing and program make possible.
- B. The environment within the centers is inviting, attractive, and conducive to thought and study.
- C. Staff members communicate their willingness to assist students in locating the resources they seek and to instruct them in the proper use of the reference and retrieval systems.
- D. Courses of study are designed so that use of the resources that exist in the centers are an essential means for achieving the learning objectives in the course.
- E. Part of the evaluation of what students have learned in a course should be growth in the skills associated with using learning resources such as those that exist in the libraries and media centers.

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Book	AG 1st Draft Clean
Section	2000 Program
Title	COPYRIGHTED WORKS
Number	ag2531
Status	Proposed to Policy & Human Resources Committee

2531 - COPYRIGHTED WORKS

This School District does not condone the illegal use or reproduction of copyrighted materials in any form. It is the intent of the District to adhere to the United States Copyright Law. The following guidelines should provide guidance in this report.

An Overview of Copyright Issues **(see Form 2531-F1 and Form 2531-F2)**

A. What is protected by copyright law?

Works that may be protected by copyright include literary works, musical works, dramatic works, pictures, graphics, sculptures, films, videotapes, sound recordings, and computer programs.¹ Copyright protection does not extend to ideas, facts, slogans, symbols, procedures, methods, or systems.² U.S. Government publications are not protected, unless the Government received the copyright by assignment, bequest, or otherwise.³

B. What is prohibited by copyright law?

The exclusive rights of a copyright owner include reproduction, adaptation, publication, performance, and display.⁴

Violating any of the exclusive rights of a copyright owner is infringement, and the infringer may be subject to civil and/or criminal penalties.⁵

C. Are there exceptions?

The Copyright Act provides several exceptions to the general rule prohibiting use of copyrighted material, including the fair use doctrine⁶, the first sale doctrine⁷, exemptions for libraries⁸, and therefore it may be impossible for a lay person to say with certainty that their use falls within one of these exemptions.⁹

For further information, one may consult the cited references, (internet websites are provided) or consult the District's [Library/Media Specialist, Copyright Officer](#).

While primarily driven by statute, these exceptions are often subject to the facts of a given situation, and therefore these guidelines summarize some aspects of the Copyright Laws including some exceptions that have been defined by statute, congressional history regulation, judicial precedent, or other relevant authority or governing body.

Do not assume that your use of copyrighted material is "ok" without consulting the accompanying guidelines.

D. What if my intended use isn't allowed under these guidelines?

Get permission.

Public Performance/Display of Copyrighted Works

In General

The owner of a copyright in literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works has an exclusive right to publicly perform and display the work.¹⁰ Thus, one might be held liable for copyright infringement for publicly performing any copyrighted work (e.g., publicly reading from a book) unless s/he either (1) has obtained a license from the copyright owner or (2) the public performance is considered "fair use". In the classroom setting, in order to allow teachers to use educational materials, several situations qualify as "fair use".

Performance/Display in the Course of Face-to-Face Teaching

A. Any work (except for motion pictures or other audiovisual works)

Any copyrighted work except for motion pictures or other audiovisual works may be performed or displayed, if:

1. instructors or students use it as part of face-to-face teaching activities, and
2. the performance or display takes place in a classroom or similar place of instruction.¹¹

B. Motion pictures and other audiovisual works

Any motion picture or other audiovisual work may be performed or displayed in accordance with the above provisions for other works, unless:

1. the copy used by the instructor or student was pirated; and
2. the person responsible for the performance or display had reason to believe it was pirated.¹²

Performance/Display Outside of Face-to-Face Teaching

A nondramatic literary or musical work may be performed or displayed even if it is not part of face-to-face teaching activities if the performance is live and is not for commercial gain.¹³

On the other hand, a dramatic work that is used outside of "face-to-face" teaching activities would require obtaining permission from the copyright owner. Also, treating a class to an in-class movie unrelated to course content would likely be outside of "face-to-face" teaching activity and would require obtaining permission from the copyright owner.

The copyright statutes do not define "dramatic" and "nondramatic" works. It is probably safe to assume that "dramatic" works (1) relate to a story and (2) a substantial portion is visually or audibly represented as actually occurring, rather than being narrated or displayed.¹⁴ For example, a play is a dramatic work.

Reproduction of Copyrighted Works

In General

A copyright holder has the exclusive right to reproduce, prepare derivative works, and distribute copies.¹⁵ In order to provide teachers with necessary classroom materials, the following examples help delineate "fair use" under the copyright statute.

Books & Periodicals

As for books and periodicals, teachers may engage in the following activities:

A. When Teachers May Make a Single Copy

A single copy may be made of any of the following by or for a teacher, at his/her individual request, for his/her scholarly research, or use in teaching or preparation to teach a class:

1. A chapter from a book;
2. An article from a periodical or newspaper;
3. A short story, short essay, or short poem, whether or not from a collective work;
4. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.¹⁶

B. When Teachers May Make Multiple Classroom Copies

Multiple copies (not to exceed in any event more than one (1) copy per student in a course) may be made by or for the teacher giving the course for classroom use or discussion; provided that:

1. the copying meets the test of brevity and spontaneity as defined below;
2. the copying meets the cumulative effect test as defined below;
3. each copy includes a notice of copyright.¹⁷

C. Definitions

1. Brevity

- a. **Poetry:** (1) A complete poem if less than 250 words and if printed on not more than two (2) pages; (2) from a longer poem, an excerpt of not more than 250 words.¹⁸
- b. **Prose:** (1) Either a complete article, story or essay of less than 2,500 words; (2) an excerpt from any prose work of not more than 1,000 words or ten percent (10%) of the work, whichever is less, but in any event a minimum of 500 words.¹⁹

(Each of the numerical limits stated in "a." and "b." above may be expanded to permit the completion of an unfinished line of a

poem or of an unfinished prose paragraph.)²⁰

- c. **Illustration:** One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.²¹
- d. **"Special" works:** Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph "b" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two (2) of the published pages of such special work and containing not more than ten percent (10%) of the works found in the text thereof, may be reproduced.²²

2. Spontaneity

- a. The copying is at the instance and inspiration of the individual teacher.²³
- b. The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.²⁴

3. Cumulative Effect

- a. The copying of the material is for only one (1) course in the school in which the copies are made.²⁵
- b. Not more than one (1) short poem, article, story, essay or two (2) excerpts may be copied from the same author, nor more than three (3) from the same collective work or periodical volume during one (1) class term.²⁶
- c. There shall not be more than nine (9) instances of such multiple copying for one (1) course during one (1) class term.²⁷

(The limitations stated in "b" and "c" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.²⁸

D. Prohibitions as to the Sections Presented Above

Notwithstanding any of the above, the following are prohibited:

1. Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Replacement or substitution may not occur whether copies of various works or excerpts therefrom are accumulated or reproduced and used separately.²⁹
2. There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.³⁰
3. Copying shall not:
 - a. substitute for the purchase of books, publishers' reprints or periodicals;³¹
 - b. be directed by higher authority;³² nor
 - c. be repeated with respect to the same item by the same teacher from term to term.³³
4. No charge shall be made to the student beyond the actual cost of the photocopying.³⁴

Televised Programs and Videotapes

If an educational institution has obtained a license that allows the institution to copy, redistribute, publicly perform or otherwise use a copyrighted work, the terms of the license agreement govern. If however, the institution has not purchased a license for public performance or reproduction, there are a limited number of scenarios in which a teacher may lawfully copy a videotape or other audiovisual work. The remainder of this section delineates when a teacher may lawfully reproduce an audiovisual work in the absence of a license agreement.

Reproduction of Television Broadcasts for Later Viewing

- A. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained for a period not to exceed the first forty-five (45) consecutive calendar days after the date of recording. Upon conclusion of such retention period, all off-air recordings must be erased or destroyed immediately. "Broadcast programs" are television programs transmitted by television stations for reception by the general public without charge.³⁵
- B. Off-Air recordings may be made only at the request of and used by individual teachers, and may not be regularly recorded in anticipation of requests.³⁶
- C. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast. The off-air recording may be repeated once only when instructional reinforcement is necessary.³⁷

Music

The owner of a copyright in a musical work has an exclusive right to reproduce, prepare derivative works, distribute, and publicly perform his/her music.³⁸ Nonetheless, certain permissible uses may be considered "fair use".

Permissible Uses

- A. Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.³⁹
- B. For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a section, movement or aria, but in no case more than ten percent (10%) of the whole work. The number of copies shall not exceed one (1) copy per student.⁴⁰
- C. Printed copies that have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, altered or lyrics added if none exist.⁴¹
- D. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.⁴²
- E. A single copy of a sound recording (such as a tape, disc, or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright that may exist in the sound recording.)⁴³

Prohibitions

- A. Copying to create or replace or substitute for anthologies, compilations or collective works.⁴⁴
- B. Copying of or from works intended to be "consumable" in the course of study or of teaching such as workbooks, exercises, standardized tests and answer sheets and like material.⁴⁵
- C. Copying for the purpose of performance, except for emergency copying, as described above.⁴⁶
- D. Copying for the purpose of substituting for the purchase of music, except described under permissible uses A and B above.⁴⁷
- E. Copying without inclusion of the copyright notice that appears on the printed copy.⁴⁸

Computer Programs⁴⁹

The copyright owner of a computer program has the exclusive right to reproduce, prepare derivative works, and distribute the work.⁵⁰ Thus, one might be held liable for copyright infringement for copying software unless s/he has obtained a license from the copyright owner or unless the copying is considered "fair use".

Archival Copies

- A. Libraries and schools may lawfully make one (1) archival copy of a copyrighted computer program under the following conditions:
 - 1. one (1) copy is made,
 - 2. the archival copy is stored,
 - 3. if possession of the original ceases to be lawful, the archival copy must be destroyed along with the original program, and
 - 4. copyright notice should appear on the copy.⁵¹
- B. The original may be kept for archival purposes and the "archival copy" circulated. Only one (1) copy-either the original or the archival-may be used or circulated at any given time.⁵²
- C. If the circulating copy is destroyed, another "archival" copy may be made.⁵³
- D. If the circulating copy is stolen, the copyright owner should be consulted before circulating or using the "archival" copy.⁵⁴

License Restrictions

If a computer program is licensed, refer to the license agreement. Statutory Fair Use exemptions can be overridden by license restrictions.⁵⁵ This stresses the need to review and abide by the terms and conditions of license agreements, especially clauses relating to permitted uses, prohibited uses, restrictions, and copying limitations.⁵⁶ By installing or using a licensed software product, you are legally bound by its agreement.⁵⁷

Typical license restrictions include:

- A. An archival (backup) copy of a copyrighted program may be made if:
 - 1. only one (1) copy is made;
 - 2. the archival copy is stored; and
 - 3. copyright notice appears on the copy.

- B. If only one (1) program is owned under license, **it may only be used on one (1) machine at a time.**
- C. A single program may **not** be loaded into a computer that can be accessed by several different terminals for simultaneous use.
- D. If the computer is capable **offer** being used by another to make a copy of the program, a warning should be posted on the computer, such as the following:

Many computer programs are protected by copyright 17 U.S.C. 101. Unauthorized copying may be prohibited by law.

In certain circumstances, negotiating objectionable terms with the publisher may be recommended (although with consumer "shrinkwrap" agreements, this may not be possible).⁵⁸

Special Concerns: Libraries

Library Copying and Distribution Guidelines⁵⁹

In General

Congress has provided a safe harbor for libraries, under which libraries may not be liable for copyright infringement in certain situations. (Note: this safe harbor may not protect a library if the library violates the license agreement by which the work was obtained.⁶⁰)

General Explanation of the Exemption

Requirements for Exemption

For a library to benefit from the exemption, it must meet three (3) conditions.

- A. Reproduction or distribution is made without any purpose of direct or indirect commercial advantage.⁶¹

Non-profit libraries may claim benefit of the exemption so long as the reproduction and distribution were not commercially motivated. Profit-making or other commercial institutions are also eligible for the exemption, as long as the reproduction and distribution was not commercially motivated.⁶²

- B. The library must be an Open Collection

To qualify as an Open Collection, a library's collection must be (1) open to the public, or (2) open to at least to persons doing research in the specialized field that is the subject of the collections.⁶³

- C. Copyright Notice May Be Required

If the original work contains a notice of copyright, that notice should also be affixed to the copy.⁶⁴ Otherwise, "if no such notice can be found on the copy that is reproduced", then the library can discharge its obligations by including "a legend stating that the work may be protected by copyright."⁶⁵

Works not Qualifying for the Exemption

The exemption does not apply to a musical work, to a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news unless the copy is for presentation or replacement as described below.⁶⁶

Copies Preservation or Replacement Purposes¹⁸

- A. A library may make up to three (3) copies of an unpublished work for purposes of preservation, including copies in digital form, if that format is not made available to the public.⁶⁷ This provision applies only to copies of works that are currently in the library's possession.⁶⁸
- B. A library may make up to three (3) copies of a published work to replace a damaged, deteriorating, lost, or stolen work, if a replacement copy cannot be obtained at a reasonable cost.⁶⁹
- C. A library may make up to three (3) digital copies of a published work that is an obsolete format, if that format is not made available to the public.⁷⁰

Use of Videotapes in Library

In-Library Use of a Copyrighted Videotape

- A. When a videotape purchase is made by the library, the vendor should be made aware of the library's intended use of the videotape. Even if a videotape is labeled "For Home Use Only," private viewing in the library should be considered to be authorized by the vendor's sale to the library if the vendor knew of the library's intended use of the videotape.⁷¹
- B. Permission is required for public viewing of a videotape in a library unless the requirements for classroom use are met.⁷²
- C. Notices should be posted on video recorders or players used in the library to educate and warn patrons about the existence of the copyright laws. An acceptable notice includes the following:

Many videotaped materials are protected by copyright. Unauthorized copying may be prohibited by law. 17 U.S.C. 101.⁷³

Third Party Use of Videotapes at School Facilities

- A. Libraries that allow groups to use or rent their public meeting rooms should, as part of their rental agreement, require the group to warrant that it will secure all necessary performance licenses and indemnify the library for any failure on their part to do so.⁷⁴
- B. If patrons are allowed to view videotapes on library-owned equipment, they should be limited to private performances, i.e., one (1) person, or no more than one (1) family, at a time.⁷⁵
- C. User charges for private viewing should be nominal and directly related to the cost of maintenance of the videotape.⁷⁶

Lending of Computer Programs by a Non-Profit Library

Nonprofit libraries may lend a computer program for non-profit purposes, so long as each copy of the computer program has the following noticed affixed "verbatim" to the packaging:⁷⁷

Notice: Warning of Copyright Restrictions

The copyright law of the United States (Title 17, United States Code) governs the reproduction, distribution, adaption, public performance, and public display of copyrighted material.

Under certain conditions specified in law, nonprofit libraries are authorized to lend, lease, or rent copies of computer programs to patrons on a nonprofit basis and for nonprofit purposes. Any person who makes an unauthorized copy or adaption of the computer program, or redistributes the loan copy, or publicly performs or displays the computer program, except as permitted by Title 17 of the United States code, may be liable for copyright infringement.

This institution reserves the right to refuse to fulfill a loan request if, in its judgment, fulfillment of the request would lead to violation of the copyright law.

37 CFR 201.24(b). This notice must be affixed to the packaging that contains the copy of a computer program loaned to a library patron.⁷⁸ The notice must include a label that is durably attached to the copies or its packaging.⁷⁹ The notice must be clearly legible and readily apparent to a casual observer.⁸⁰

Special Concerns: Internet and Other Modern Technology Issues

Databases

Generally, the information made available to researchers from commercial online and CD-based electronic databases is copyrighted.⁸¹ Read the terms and conditions for a database before using or downloading.

Distance Learning

In General

In the distance learning context, where educational materials are transmitted over a network, the computers involved generally make copies of the educational materials in making the transmissions. This copying, however, depending on the circumstances, may not be an infringement. Under the TEACH Act, Congress created an exemption to protect schools that choose to utilize distance learning. Under this exemption, if a learning institution adheres to specific requirements, they will not be liable for copyright infringement. Instructors must be mindful of the requirements.

Institutional Considerations

In order to qualify for the distance learning exemption, an accredited nonprofit educational institution must have the necessary technological measures in place and implement a copyright policy.⁸²

Accredited Non-Profit Educational Institution

These guidelines apply to accredited nonprofit educational institutions.⁸³ An institution utilizing distance learning must be one (1) of two (2) types to qualify for the TEACH Act exemption:

- A. an institution providing post-secondary education, as determined by a regional or national accrediting agency recognized by the Council on Higher Education Accreditation or the United States Department of Education; or
- B. an institution providing elementary or secondary education, which shall be recognized by the applicable State certification or licensing procedures.⁸⁴

Necessary Technological Measures

A. Reception

To the extent technologically feasible, the institution's information technology officials must limit the reception of distance learning transmissions to students officially enrolled in the distance learning course.⁸⁵ This may, for example, be accomplished by transmission over a secure system with technological limitations on access to the class or program such as a PIN number, password, smartcard or other means of identification of the enrolled student.

Reception must be in a classroom or other similar place normally devoted to instruction or any other site where the reception can be controlled by the eligible institution.⁸⁶ These guidelines are also applicable to government agency employees who take the course or programs offered by the agency as a part of their official duties.⁸⁷

B. Reproduction and Access to Copies

The institution's information technology officials must apply technology measures to reasonably prevent (1) participants enrolled in the course from retaining the copyrighted materials for longer than the class session, and (2) participants from disseminating unauthorized copies of the copyrighted materials.⁸⁸

Educational institutions may retain copies of their digital transmissions, provided that no further copies are made from those works.⁸⁹

C. Other Considerations

Information technology officials should review their technological systems to be certain that the distance learning system does not interfere with digital rights management technology or other technological measures that copyright owners use to control their works.⁹⁰

Implement a Copyright Policy

The transmitting institution must "institute policies regarding copyright."⁹¹ These policies should provide information materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provide notice to students that materials used in connection with the course may be subject to copyright protection.⁹² Among other possible strategies, institutions might distribute printed information, post information on websites, and have users click an agreement each time they use the distance learning software.

Instructor's Considerations

Instructors need to be aware of the types of material that are protected and must oversee the use of such materials.⁹³

A. Types of Works Qualifying for the Exemption

To qualify for the distance learning exemption, the material transmitted by the instructor must be of a proper type.⁹⁴ Transmission of any of the following may be exempt from infringement:

1. performance of a nondramatic literary or musical work,⁹⁵
2. performance of reasonable and limited portions of all other works,⁹⁶ (e.g., plays and visual art)⁹⁷
3. display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session,⁹⁸ or
4. transmission of works converted from analog format to digital format if: (1) a digital version is unavailable to the institution, or is available but subject to technological protection that prevents its transmission for distance learning, and (2) the conversion and transmission is limited to the amount authorized (see section b. above – "reasonable and limited" portions).⁹⁹

B. Types of Works Not Qualifying for the Exemption

Transmission of the following is not exempt from infringement:

1. works produced or marketed primarily for performance or display as part of "mediated instructional activities transmitted via digital networks" (e.g. commercially available online educational materials)¹⁰⁰
2. textbooks, course packs, or other course materials that are typically purchased or acquired by students for their individual use¹⁰¹
3. works that were unlawfully made or acquired (e.g. pirated materials)¹⁰²

C. The performance or display of the copyrighted material must be made under the teacher's actual supervision. The material must be directly related to the content of the lesson and must be part of the systematic instruction of the students. The performance may not be for entertainment purposes.¹⁰³

D. Number of Copies and Lifetime thereof

An institution may make no more than thirty (30) copies of a particular transmission program, if (1) no further copies are reproduced, and (2) except for one (1) copy preserved exclusively for archival purposes, the copies are destroyed within seven (7) years from the date the transmission was first transmitted to the public.¹⁰⁴

Examples: When Permission of Copyright Owner is Required

- A. **Commercial uses:** Any commercial use including the situation where a nonprofit educational institution is conducting courses for a for-profit corporation for a fee such as supervisory training courses or safety training for the Corporation's employees.¹⁰⁵
- B. **Dissemination of recorded courses:** An institution offering instruction via distance learning under these guidelines wants to further disseminate the recordings of the course or portions that contain performance of a copyrighted work.¹⁰⁶
- C. **Uncontrolled access to classes:** An institution (agency) wants to offer a course or program that contains the performance of copyrighted works to non-employees.

School as an Internet Service Provider (ISP)

In the event that the District or an institution of the District operates as an internet service provider, the District or institutions of the District may be able to take measures under the copyright statutes to limit copyright liability. If the District wishes to take advantage of these internet service provider limitations, an attorney should be consulted.

Giving Credit to Copyright Owners

Always give proper credit to authors or other copyright owners. Crediting the source must adequately identify the source of the work, giving a full bibliographic description including author, title, publisher, and place and date of publication. Copyright ownership information should include the copyright notice ©, year of first publication, and name of copyright holder.¹⁰⁸

Always include the notice of copyright present in the original work. The following is a satisfactory notice:

Notice: This material may be protected by copyright law.

If alterations have been made in the copyrighted material, this should be noted in the credits.

Obtaining Permission for Use of Copyrighted Material

Questions concerning copyright procedures, including fair use, should be addressed to the District Copyright Officer.

Employees must obtain permission for any use of copyrighted material that is not a fair use under the above guidelines. To obtain permission, the employee should contact the Copyright Clearance Center, Inc., or the Permissions Department of the copyright holder (usually the publisher).

Copyright Clearance Center, Inc.
222 Rosewood Drive
Danvers, MA 01923
(978) 750-8400
www.copyright.com

To request permission from the publisher, the request must be in writing and should be sent, together with an envelope addressed to the sender, to the permissions department of the publisher of the work. The request should include the title, author or editor, and edition of materials for which permission is sought; the exact materials to be used, with specification of amount, page numbers, chapters, including, if possible, a photocopy of the material; the number of copies to be made; the use to be made of the duplicated materials; the form of distribution; whether or not the copies will be sold; and the process by which the material will be reproduced.

A copy of the written permission granted by the publisher or copyright owner should be forwarded to and maintained by the District Copyright Officer.

A reasonable inquiry must be made to identify and locate the copyright owner. A reasonable inquiry includes, but is not limited to, conducting each of the following steps: (1) checking any information within the control of the educational institution, including slide catalogs and logs, regarding the source of the image; (2) asking relevant faculty, departmental staff, and librarians, including visual resource collections administrators, for any information regarding the source of the image; (3) consulting standard reference publications and databases for information regarding the source of the image; and (4) consulting rights reproduction collectives and/or major professional associations representing image creators in the appropriate medium.

REFERENCES

1 17 U.S.C. 102(a) (reciting all types of works except for computer programs). See also 17 U.S.C. 101 (defining computer program in the copyright statute) in view of *Apple Computer v. Franklin Computer Corp.*, 714 F.2d 1240, 1253 (affording copyright protection to various computer programs).

2 17 U.S.C. 102(b).

3 17 U.S.C. 105.

4. 17 U.S.C. 106.

5 See 17 U.S.C. 501 (stating in part "Anyone who violates any of the exclusive rights of the copyright owner...is an infringer"); 17 U.S.C. 502 (providing for injunctions in cases of copyright infringement); 17 U.S.C. 503 (allowing injunctions for copyright infringement); 17 U.S.C. 504 (providing for actual damages, statutory damages, and profits for copyright infringement); 17 U.S.C. 505 (providing for attorney's fees for copyright infringement); 17 U.S.C. 506 (providing for criminal offenses for copyright infringement);

6 17 U.S.C. 107.

7 17 U.S.C. 109.

8 17 U.S.C. 108.

9 See e.g. 17 U.S.C. 107 (describing the "Fair Use" exception, and particularly noting that "the factors to be considered include") (emphasis added). Thus, regarding "fair use", courts use a balancing approach instead of a bright-line test.

10 17 U.S.C. 106.

11 17 U.S.C. 110(1).

12 17 U.S.C. 110(1).

13 17 U.S.C. 110(4).

14 Nimmer on Copyright 2.06(A)

15 17 U.S.C. 107.

16 See <http://www4.law.cornell.edu/uscode/17/107.notes.html> (linking to H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. (1976) from which this section is adapted). Specifically, this excerpt is taken from the portion of this bill with the heading "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with respect to books and periodicals". See id. H.R. Rep. No. 94-1476 is included along-side 17 U.S.C. 107 (entitled "Limitations on Exclusive Rights: Fair Use") in the "Historical and Revision Notes" comments. See id.

17 Id. (referring to Comments of 17 U.S.C. 107).

18 Id. (referring to Comments of 17 U.S.C. 107).

19 Id. (referring to Comments of 17 U.S.C. 107).

20 Id. (referring to Comments of 17 U.S.C. 107).

21 Id. (referring to Comments of 17 U.S.C. 107).

22 Id. (referring to Comments of 17 U.S.C. 107).

23 Id. (referring to Comments of 17 U.S.C. 107).

24 Id. (referring to Comments of 17 U.S.C. 107).

25 Id. (referring to Comments of 17 U.S.C. 107).

26 Id. (referring to Comments of 17 U.S.C. 107).

27 Id. (referring to Comments of 17 U.S.C. 107).

28 Id. (referring to Comments of 17 U.S.C. 107).

29 Id. (referring to Comments of 17 U.S.C. 107).

30 Id. (referring to Comments of 17 U.S.C. 107).

31 Id. (referring to Comments of 17 U.S.C. 107).

32 Id. (referring to Comments of 17 U.S.C. 107).

33 Id. (referring to Comments of 17 U.S.C. 107).

34 Id. (referring to Comments of 17 U.S.C. 107).

35 <http://www.lib.jmu.edu/org/mla/Guidelines/> (linking to the Music Library Association's "Guidelines for Off-Air Recordings of Broadcast Programming for Educational Purposes").

36 Id. (citing Music Library Association's "Guidelines for Off-Air Recordings of Broadcast Programming for Educational Purposes.")

37 Id. (citing Music Library Association's "Guidelines for Off-Air Recordings of Broadcast Programming for Educational Purposes.")

38 17 U.S.C. 107.

39 See <http://www4.law.cornell.edu/uscode/17/107.notes.html> (linking to H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. (1976) of which this section is verbatim). Specifically, this excerpt is taken from the portion of this bill headed "guidelines for educational uses of music". See id. H.R. Rep. No. 94-1476 is included along-side 17 U.S.C. 107 (Entitled "Limitations on Exclusive Rights: Fair Use") in the "Historical and Revision Notes" comments. See id.

40 Id. (referring to Comments of 17 U.S.C. 107).

41 Id. (referring to Comments of 17 U.S.C. 107).

42 Id. (referring to Comments of 17 U.S.C. 107).

43 Id. (referring to Comments of 17 U.S.C. 107).

44 Id. (referring to Comments of 17 U.S.C. 107).

45 Id. (referring to Comments of 17 U.S.C. 107).

46 Id. (referring to Comments of 17 U.S.C. 107).

47 Id. (referring to Comments of 17 U.S.C. 107).

48 Id. (referring to Comments of 17 U.S.C. 107).

49 See 17 U.S.C.A. 107 (West 2002) (also known as the "Fair Use Doctrine"); 17 U.S.C.A. 117 (West 2002) (allowing an owner to make a copy of a computer program in certain limited situations); 17 U.S.C.A. 109(b)(2) (West 2002) (also known as the "First Sale Doctrine") (allowing nonprofit libraries to lend computer providing a warning of copyright is affixed to the program (37 C.F.R. 201.24, "Warning of copyright for software lending by nonprofit libraries")).

50 Id. 17 U.S.C. 107.

51 These guidelines are adapted from the American Library Association's Model Policy of 1986 (available at <http://www.ifla.org/documents/infopol/copyright/ala-1.txt>) (last accessed Oct. 17, 2005). See also 17 U.S.C. 117.

52 Id. (referring to ALA's Model Policy of 1986 and 17 U.S.C. 117).

53 Id. (referring to ALA's Model Policy of 1986 and 17 U.S.C. 117).

54 Id. (referring to ALA's Model Policy of 1986 and 17 U.S.C. 117).

55 In other words, even if a party is not liable for copyright infringement, that party may still be liable for breach of contract. As such, State law would apply to the contract claim to the extent that State law is not pre-empted by Federal copyright law.

56 See previous note.

57 Regarding so-called "shrink wrap" license agreements, compare *ProCD v. Zeidenberg*, 86 F. 3d 1447, 1449 (7th Cir. 1996) (enforcing shrink-wrap licenses), with *Step-Saver Data Sys., Inc. v. Wyse Tech.*, 939 F.2d 91, 93, 99 (3rd Cir. 1991) (invalidating shrink-wrap licenses under the UCC).

58 The Association of Research Libraries (ARL) provides guidelines for negotiating license agreements for computer software, available at <http://www.arl.org/scomm/licensing/index.html>. See also, *supra* note 64 (discussing shrink-wrap license agreements).

59 See generally 17 U.S.C. 108 (commonly referred to as the statutory exemption for libraries). See also *Nimmer 8.03* (discussing the statutory exemption for libraries).

60 Such a violation may be a breach of contract even if it is not a copyright violation.

61 17 U.S.C. 108(a)(1).

62 *Nimmer 8.03(A)(1)*.

63 17 U.S.C. 108(a)(2).

64 17 U.S.C. 108(a)(3).

65 17 U.S.C. 108(a)(3). See also *Nimmer 8.03(D)*.

66 17 U.S.C. 108(i).

67 17 U.S.C. 108(b).

68 17 U.S.C. 108(b)(1).

69 17 U.S.C. 108(c).

70 17 U.S.C. 108(c).

71 These guidelines are adapted from the American Library Association's Model Policy of 1986 (available at <http://www.ifla.org/documents/infopol/copyright/ala-1.txt>) (last accessed Oct. 17, 2005). This model policy was drafted by Mary Hutchings Reed and Debra Stanek. Mary Hutchings Reed is a partner in the law firm of Sidley & Austin, Chicago, and counsel to the American Library Association. Debra Stanek will graduate in June 1986 from the University of Chicago Law School. As of 2005, this Model Policy has not been incorporated into the copyright statute. See 17 U.S.C. 108. In particular, the current statutory library exemption does not extend to musical works, to pictorial, graphic or sculptural works, or to motion pictures or other audiovisual works, except that news-related audiovisual works may fall within the exemption. 17 U.S.C. 108(i).

72 Id. (referring to the ALA's Model Policy of 1986).

73 Id. (referring to the ALA's Model Policy of 1986).

74 Id. (referring to the ALA's Model Policy of 1986).

75 Id. (referring to the ALA's Model Policy of 1986).

76 Id. (referring to the ALA's Model Policy of 1986).

77 17 U.S.C. 109(b)(2)(A).

78 37 CFR 210.24.

79 37 CFR 210.24.

80 37 CFR 210.24.

81 See 17 U.S.C. 101 (extending copyright protection to any "original work of authorship" that is "fixed in a tangible medium of expression") in view of *Fiest Publications v. Rural Telephone Service Co.*, 499 U.S. 340 (1991) (deeming that "originality" is the relevant standard for copyrightability, and dismissing the "sweat of the brow" test).

82 See generally, 17 U.S.C. 110(2).

83 *Id.*

84 17 U.S.C. 110(2) (third paragraph after clause (10)).

85 17 U.S.C. 110(2)(C).

86 See 17 U.S.C. 110(2).

87 17 U.S.C. 110(2)(C)(ii).

88 17 U.S.C. 110(2)(D)(ii).

89 See 17 U.S.C. 110(final paragraph).

90 17 U.S.C. 110(2)(D)(ii)(II).

91 17 U.S.C. 110(2)(D)(I).

92 *Id.*

93 See *supra* notes 44-51.

94 See generally 17 U.S.C. 110(2) (commonly referred to as the TEACH Act).

95 17 U.S.C. 110(2).

96 17 U.S.C. 110(2).

97 National Law Journal (Feb. 10, 2003) (available at http://www.goodwinprocter.com/publications/hildebrand_klosek_02_10_03.pdf)

98 17 U.S.C. 110(2).

99 17 U.S.C. 112(f)(1).

100 17 U.S.C. 110(2).

101 17 U.S.C. 110(2) (second paragraph after clause (10)).

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Book	AG 1st Draft Clean
Section	2000 Program
Title	EVALUATION OF PROGRAM PURPOSE
Number	ag2605
Status	Proposed to Policy & Human Resources Committee

2605 - EVALUATION OF PROGRAM

PURPOSE

Evaluation is essential to **achieve** adequately **achieve** a desired learning outcome. Staff needs to be able to monitor a given situation in such a way that the District or a school has appropriate data about the current status on which to base decisions and actions. If the assessment is inadequate (for one of several reasons), it could lead to inappropriate actions and ultimately to lack of accomplishment of District goals and staff responsibilities.

Sequence of Tasks in Program Evaluation

Task 1 Clarify the outcomes and elements of the program to be evaluated.

Task 2 Describe program outcomes and elements as they **should** be.

Task 3 Determine the procedures for gathering needed information about current status of program outcomes and elements.

Task 4 Gather the data.

Task 5 Verify the accuracy and sufficiency of the data.

Task 6 **Assess** the programs by:

1. comparing the data (Task 4) with the standards (Task 2) to determine strengths and weaknesses;
2. determining the relative significance of both strengths and weaknesses.

Task 7 **Evaluate** the program by judging its value or worth based on the assessment (Task 6).

PROGRAM EVALUATION CHECKLIST

When conducting an evaluation of a District program, use some or all of the following questions to 1.) determine **what** is to be evaluated (Task 1), 2.) determine standards (Task 2), and then 3.) obtain evidence about its effectiveness (Task 3):

A. RESULTS

1. How proficiently are the participating students learning to perform the tasks in each component of the program?
2. How well are the participating students achieving each of the parts of the INTENDED LEARNING OUTCOME as demonstrated by their performance on the APPLICATION OF LEARNING TASKS?
3. What specific secondary gains (additional benefits) are being realized for the participating students? for other students? for teachers? for the school/district? etc.
4. What specific side effects (negative consequences) are realized for the participating students? for other students? for teachers? for the school/district? etc.
5. How well does the program comply with local, state, and Federal regulations, guidelines, policies, constraints, etc.?

B. ATTITUDES

1. To what extent do those who are directly involved in the program think it is a good program and want to continue being involved in it?
2. To what extent do those not directly involved in the program think it is a good program and should be continued?

C. PROGRAM OPERATION

1. How well do the needs assessment procedures work to efficiently identify the students who should be involved in the program?
2. How well is the **organization** and the **scheduling** of the program working to provide the participating students the opportunity to achieve program goals and meet other needs without inhibiting other students from achieving their learning goals and objectives?
3. How well is the staff able to fulfill the roles and responsibilities needed to develop and implement the program?
4. How well are the program-planning procedures working to create a plan for learning that will achieve the Intended Learning Outcomes of the program?
5. How effective are the **instructional procedures** being used working to implement the curriculum and to facilitate the students' achievement of the program goals?
6. How adequate and appropriate are the **facilities** being used to implement the program effectively?
7. How adequate, appropriate, and available are the **instructional resources** needed to implement the program effectively?
8. How well is the information about the program and its participating students being **communicated** to those who need, want, and/or should have the information?

Criteria and standards for each selected program result and/or elements need to be decided, based on a determination of the amount and quality of those characteristics that either are essential for the program to be effective or are needed to satisfy people in the particular situation.

ESTABLISHING CRITERIA AND STANDARDS

The following are suggested procedures for establishing a set of criteria and standards for evaluating any District learning program.

- A. Using the Program Evaluation Checklist above, identify the results and elements of the program which are of particular interest or concern.
- B. Arrange the results and the elements in terms of relative importance and/or assign a weight to each.
- C. For each CRITERION, develop a rating scale or some way of assigning a numerical value to varying degrees of that quality based on evidence or on opinion supported by evidence.

For examples of rating systems with criteria/standards, refer to AG 2252, Step Four and AG 2521, Section E.

EVALUATION GUIDELINES

Evaluation is a **judgment** about how "good" something is based on how well it meets particular **standards**.

If plans for evaluating a program are made **when the program is planned**, the task of evaluating is made considerably easier than if the evaluation plan is not developed about until **after** the program has been planned and/or implemented.

The following are some suggested guidelines regarding evaluation:

- A. Decide, well in advance of any reporting, **what** will be evaluated, **who** will be asked to evaluate, **when** the program will be evaluated, and on what **basis**.
- B. Be sure that everyone involved in the evaluation is clear about the criteria and standards and what will be considered **evidence** on which to base a rating on each criterion.
- C. Devise checklists, forms, etc. which make it **easy** for people to keep track of data related to each criterion.
- D. Do not formally assess and evaluate a program until there is **evidence of results**. In a learning program, other variables such as: ~~nothing else~~ attitudes, teaching procedures, etc. - should not be judged except in terms of how each helps to produce the learning results. Also, do not ~~change~~ ~~keep changing~~ the program until there is evidence of results. Let the program produce results and then assess them and key program elements. After the assessment/evaluation is completed, changes can be made to:

1. maintain and/or improve learning outcomes and other results;
2. improve elements of the program;
3. maintain/increase secondary gains;
4. decrease or eliminate side-effects.



Book	AG 1st Draft Clean
Section	2000 Program
Title	TESTING PROGRAM
Number	ag2623
Status	Proposed to Policy & Human Resources Committee

2623 - TESTING PROGRAM

Purpose of Testing

Testing, like any other element of the District's program, should have a definite purpose related to District goals. No test should be given without first defining its purpose and determining how the results will be used.

SUGGESTED PURPOSES FOR VARIOUS TESTS

A. Achievement Tests

1. to measure a student's progress in achieving District learning outcomes
2. to help determine student learning strengths and weaknesses and/or diagnose their causes
3. to help assess the effectiveness of a school's or the District's program and/or identify/diagnose educational strengths and weaknesses
4. to aid in evaluating curriculum and/or instructional strategies and resources

B. Intelligence Tests

to assist in determining eligibility for special programs

C. Basic Skills Tests

1. to help determine the extent to which a student can perform tasks associated with functional literacy
2. to aid in diagnosing problems with literacy task-skills and in providing for appropriate remediation

D. Readiness Tests

to help determine the appropriate time for a student to begin a learning program

E. Vocational Interest/Aptitude Tests

1. to help determine a student's interests or aptitudes for comparison with those related to particular vocational fields
2. to assist in the vocational counseling of a student

Uses of Test Results

The purpose for giving a test is to use the results to improve learning and to communicate with those concerned about how well a student or group of students are learning.

Item Analysis

If test results are to be used effectively, an analysis of the test items usually should be the first step. Such an analysis makes it easier to determine where students are strong and where the weaknesses are so that instruction can be geared accordingly. A proper analysis should provide the kind of knowledge that will not only aid in designing appropriate learning activities but in producing a more reliable assessment and more useful communication to both students and their parents.

Curriculum and Instruction

Administrators will be responsible for ensuring that test results are used by the staff to both refine the curriculum and improve instructional strategies and resources. To aid in this process, in-service programs may be necessary to strengthen understanding of how different kinds of tests are designed, how to judge reliability and validity, and how to use test information to diagnose and remediate.

Counseling

Administrators should ensure that teachers and counselors are working cooperatively by sharing information derived from the testing program. The counselors should be using test results and analyses to help students (and their parents) develop a realistic and valid view of their current achievement levels and design and follow through on plans related to both their school and vocational careers. Teachers should also be aware of these plans to help support such plans in the classroom.

Communication with Parents

As one of the important partners in the educative process, it is essential that parents be kept properly informed of test results, particularly those that relate directly to academic achievement. In communicating with parents, particularly with regard to standardized tests, the following guidelines should be observed:

- A. Test results should be provided in context, that is, with the purpose of the test(s) clearly stated and the student's measurement compared to standards.
- B. Make sure parents are aware of the relationship between the test's purpose and the goals of the particular program of which the test is a part.
- C. Communicate what the test is designed to measure as well as what it does not attempt to measure.
- D. Seek questions, provide or obtain reliable answers, and, if the parent is not satisfied with the answer(s), refer the question to the next level of authority.

Use in Remediation and Promotion/Retention

- A. Intervention shall be provided to all students who do not meet the minimum standards of proficiency as measured by Student Assessment System as well as achievement tests.
- B. Test results will be used by all classroom teachers to assist in identifying and implementing instruction appropriate to the needs of students who do not meet the identified competency standards.
- C. Test results may be used by teachers, administrators, and guidance personnel as a factor in promotion and graduation decisions, such as the State required Civics test, but shall not be the sole factor in determining promotion or graduation.
- D. Intervention shall continue until students attain minimum proficiency as measured by District standards.
- E. District specialists may assist regular classroom teachers in identification of individual student competency needs and in accommodating instruction to the intervention needs of identified students.
- F. Textbooks and other instructional materials appropriate to the intervention needs of students should be identified for use by District staff.

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Title	PROCEDURE FOR ANALYZING TESTS
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2626 - **PROCEDURE FOR ANALYZING TESTS**

The following guidelines – AG 2626 and AG 2626A - will be useful in conducting an analysis of test sections and test items in order to determine the prerequisite knowledge and skills the students must have in order to score well on a test or to properly complete a test item. The results of an analysis should assist staff in preparing intervention activities that focus on the particular weaknesses in knowledge or skill identified in the analysis.

This procedure is applicable to any standardized test to which staff has access to the test itself. In those cases where the staff is not allowed access to the test, an analysis can be done of the sample test items that are usually available from the State or the test- maker.

Teachers should also find this analysis procedure helpful in either analyzing items on teacher-made tests or in constructing test items to measure particular understandings or skills.

~~When working with this analysis procedure, refer to Forms 2626 F1— Analyzing a Test Section (Example) and 2626 F2— Worksheet for Analyzing a Test Section.~~

ANALYZING A SECTION OF A TEST

Step One

Considering the title, if any, the instructions, and the kinds of items found in the samples and/or in the section, what particular areas of knowledge and/or skill is this section evaluating?

- A. What do the words in the section instructions really call upon the student to do?
- B. What area of competency do the samples and items in the section relate to?

The result of asking and answering this question should be a clear mental picture and, if required, written description of the particular aspect of the broad area (a test topic such as "Word Analysis" or "Mathematics Concepts and Applications" is being tested in the section.

Step Two

Why is it important for students to have the knowledge and skills being tested in this section?

- A. How will competence in this area affect the student's success in learning or in school?
- B. How will competence in this area affect the student's life outside of school?

The result of asking and answering this question should:

- A. determine the importance - or lack of importance - of the knowledge and skills being tested;
- B. suggest the priority for ensuring student development of such knowledge and skills in the curriculum;
- C. provide ideas that can be used to help motivate students in their learning.

Step Three

What specific kinds of knowledge do students need in order to be competent in this particular area?

- A. Identify each kind of knowledge_?
- B. For each kind, where, when, and how in the current course of study is it taught, developed, and confirmed?

The result of asking and answering this question should be both a list of specific knowledge students need to be competent in this particular aspect of the broad area and a clear picture of current practices in teaching, developing, and confirming understandings. When analyzed after student performance has been evaluated, the result should also include a clear understanding of current practices to be continued and expanded on and current practices to be changed.

Step Four

What specific skills do students need in order to be competent in this particular area?

- A. Identify each type of skill.
- B. For each skill, when, where, and how in the current course of study is it taught, developed, and confirmed?

The result of asking and answering this question should be both a list of specific skills needed for competence and a clear picture of current practices in teaching, developing, and confirming these skills. When analyzed after student performance has been evaluated, the result should also include a clear understanding of current practices to be continued and expanded on and current practices to be changed.

If the analysis is done after student test performance has been evaluated and it has been discovered that:

- A. students did particularly well in this particular section - what is there about the when, where, and how taught that probably contributed to student success and should be applied elsewhere?
- B. students achieved below expectations on this section - what is there about the when, where, and how taught that probably contributed to poor student performance? What changes are indicated?

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Title	ANALYZING A TEST ITEM
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2626A - ANALYZING A TEST ITEM

~~When working with this analysis procedure, refer to Form 2626A F1—Analyzing a Test Item (Example) and Form 2626A F2—Worksheet for Analyzing a Test Item.~~

Step One

Considering the nature of the test and section in which the item is found, and the wording of the item, including both stem and foil, what is the item really testing?

- A. What, if any, discrete components of knowledge are being tested?
- B. What, if any, specific operations are being tested?

The result of answering this question would be a clear understanding of the essence of the question, the knowledge or skill issue it is addressing.

Step Two

Why is it important that the student possess this particular knowledge or be able to perform this specific operation?

- A. Why is it important for success in future learning/schooling?
- B. Why is it important for life outside of school?

The result of asking and answering this question should:

- A. determine the importance - or lack of importance - of the knowledge and skills being tested;
- B. suggest the priority for ensuring student development of such knowledge and skills in the curriculum;
- C. provide ideas that can be used to help motivate students in their learning.

Step Three

What discrete items of knowledge and information are needed?

- A. What special definitions or concept label meanings are required?
- B. What bits or factual information must be recalled or recognized?
- C. What rules or conventions must the student recall?

For each of the above, when, where, and how are they taught, developed, and confirmed in the current course of study?

Step Four

What specific skill-related operations are required?

For each, when, where, and how are they taught, developed, and confirmed in the current course of study?

The result of answering this question should be both a list of skill related-operations needed and identification of where in a course of study, if at all, each is taught, developed, and confirmed.

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