

Technology Training Manual

Student Success Through Excellence, Achievement, and Improvement



Copyright Law and Fair Use Guidelines



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Course Overview

Overview

Copyright Law and Fair Use Guidelines are becoming a very important part of education today. Copyright Law includes, but is not limited to, rules for making print copies and showing videos in the classroom. Also, many students and teachers are creating multimedia presentations that incorporate digital images with audio and video clips. While these additions make the presentations more enjoyable and interesting, there are many guidelines that educators need to be aware of before using these enhancements.

Participants will:

- Understand the meaning of copyright
- Learn the Fair Use Guidelines
- Analyze various scenarios to determine if Fair Use has been properly followed

Disclaimer:

The information in this module should not be considered legal advice. The intent of this module is to present the guidelines currently available to educators regarding copyright law and fair use.

Notes

Defining Copyright

What is Copyright?

Copyright is a form of protection provided by the laws of the United States to the authors of “original works of authorship”. This protection is available for both published and unpublished works. The purpose of copyright is to advance the public welfare by promoting artistic and scientific progress. (Becker, 1997)

Actually, almost every original, tangible product is considered a copyrighted item as soon as the product is made. No registration is required, nor does the work have to display the copyright symbol (©). This law protects works created after January 1, 1978.

According to the U.S. Copyright Office, Copyright does NOT protect:

- works that have not been fixed in a tangible form of expression.
- titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents.
- ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices – as distinguished from a description, an explanation, or an illustration.
- works consisting entirely of information that is common property and contains no original authorship, such as standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources. (taken from <http://www.copyright.gov/circs/circ1.html>)

Additionally, works that are in the public domain are no longer protected. The public domain includes:

- works published before January 1, 1923.
- works published between 1923 and 1978 that did not contain a valid copyright notice.
- works published between 1923 and 1978 for which the copyright was not renewed.
- works authored by employees of the federal government.
- works that the copyright owner has freely granted to the public domain.
- Original works created after January 1, 1978, will not pass into the public domain until at least 2048. Also, anonymous works are copyright protected until 95 years after creation of the item. (Starr, 2004)

Notes

Fair Use Guidelines

Fair Use Guidelines

The Copyright Act of 1976 determined how educators and students could use copyrighted materials legally, without having to obtain permission. These guidelines are called the Fair Use Guidelines. The government set up these guidelines to allow for the advancement of knowledge and scholarship. The guidelines are not laws, though, and are subject to various interpretations. No one ever said that learning about copyright was going to be cut and dry!

To determine whether the use made of a work in any particular case is a fair use, the factors to be considered are:

- **The purpose and character of the use**, including whether such use is of a commercial nature or is for nonprofit educational purposes. (Are you truly using it for educational purposes??)
- **The nature of the copyrighted work**. (Factual material is less protected; creative works are more highly protected.)
- **The amount and extent of the portion used in relation to the copyrighted work as a whole**. (How much of the copyrighted material did you use? This topic is discussed in great length later in this module.)
- **The effect of the use upon the potential market for or value of the copyrighted work**. (What is the financial impact on the copyright owner? This factor seems to be the most significant one considered.)

Fair Use Guidelines exist for the following categories:

1. Photocopying
2. Audio Visual Materials
3. Computer Software and CD-ROMs
4. Multimedia Projects
5. Copying from the Internet

Notes

Photocopying

Fair Use Guidelines for Photocopying

The following guidelines were established as fair use when photocopying copyrighted materials. Remember, that just because an item is out of print, it does not necessarily mean it is out of copyright!

When photocopying a **single copy** for teacher or classroom use, it is fair use to copy:

- a chapter of a book
- an article from a periodical or newspaper
- a short story, short essay or short poem
- a chart, diagram, cartoon or picture from a book, periodical or newspaper

When photocopying **multiple copies** for teacher or classroom use, it is fair use to copy:

- a complete poem if less than 250 words
- an excerpt from a longer poem, not to exceed 250 words
- a complete article, story or essay of less than 2,500 words
- excerpt from a larger article, story or essay not to exceed 1,000 words or 10% of the whole, whichever is less
- one chart, graph, diagram, cartoon, or picture per book or periodical issue
- special works containing prose, poetry and illustrations, but limited to no more than 10% of the total (example: a children's picture book)

The guidelines **do not** allow users to:

- make multiple copies of different works as a substitute for the purchase of books or periodicals
- copy more than one short poem, article, story, essay, or two excerpts from the same author, nor more than three from the same collective work or periodical volume during one class term
- copy the same works for more than one semester, class, or course
- copy the same work more than nine times in a single semester
- use copyrighted work for commercial purposes
- use copyrighted work without attributing the author or have more than 9 instances of multiple copying in one semester.

Notes

Photocopying

Discussion - Fair Use Guidelines for Photocopying

Read and evaluate the following scenarios to determine whether or not they exemplify fair use:

Scenario 1:

Ms. Smith is studying poetry with her fourth grade students. She would like to share some of Robert Louis Stevenson's poems. Ms. Smith checks out an anthology from the library of R.L. Stevenson's work. She proceeds to choose 10 poems from the book and makes a copy of each poem for each of her students.

Scenario 2:

Mr. Brown, a second grade teacher, would like to have a small group of students read *Click, Clack, Moo: Cows That Type* by Doreen Cronin. Since the short picture book is somewhat expensive, Mr. Brown decides to make 8 copies of the book on the school copy machine for his students.

Scenario 3:

Ms. Rodriguez finds a wonderful example of an opening paragraph in Chapter 3 of the novel *Where the Red Fern Grows* by Wilson Rawls. She decides to share the paragraph with her students for them to analyze. Ms. Rodriguez displays the paragraph on her large screen monitor in the classroom during their discussion.

Notes

Here are the answers to the scenarios:

Scenario 1:

Ms. Smith is not following the fair use guidelines since she used more than 1 poem from the same poet. One possible way to accomplish this lesson objective is to project the poems on a large screen monitor.

Scenario 2:

Mr. Brown is not following the fair use guidelines since he is making the copies of the book so that he doesn't have to purchase them.

Scenario 3:

Ms. Rodriguez is following proper fair use guidelines. She has not exceeded the "one chapter" rule. If she wanted to, she could even photocopy the paragraph for each student in her class.

Audio Visual Materials

Fair Use Guidelines for Audio Visual Materials (VHS tapes, DVD movies, audio recordings)

Notes

The following guidelines were established as fair use when using audio visual copyrighted materials.

- Teachers may only play videotapes and/or audiotapes in class if the tapes relate directly to the lesson. The tapes must be used for direct instruction (face-to-face). Unless a public performance license is purchased, teachers cannot play audiotapes or videotapes for reward or entertainment purposes even if it is an “indoor recess” time or after TAKS tests!
- Teachers may use tapes owned by them, the school, students, rented from a video store, or taped from television (even if the tape says “home use only”).
- Programs taped from open-air broadcast stations (those that you can receive without cable or satellite) may be kept for 45 days after taping, then must be erased. The tape must be shown within the first 10 consecutive school days after taping.
- Teachers must obtain permission to show programs they have taped from non-open-air stations (example: cable or satellite stations).
- Copies may be made only if replacements are unavailable at a fair price or in a viable format.

lass.

Effective October 1, 2006, SWISD has purchased public performance licenses from several film companies including Walt Disney, Dream Works, United Artists, Sony, Miramax, Touchstone, Columbia, Paramount, Metro-Goldwyn-Mayer, Warner Bros., Universal, Lion Gates, New Line Cinema, Tri-Star, and Hollywood Pictures. If you have any questions, please call the Media Center at 210-622-4408.

Audio Visual Materials

Discussion - Fair Use Guidelines for Audio Visual Materials (VHS tapes, DVD movies, audio recordings)

Read and evaluate the following scenarios to determine whether or not they exemplify fair use:

Scenario 1:

Big Country Elementary School is holding its Fall Open House for parents to meet their child's teacher. A group of parent volunteers graciously offer free babysitting that evening in the gym for younger children. The parent volunteers rent several Disney movies to show to the children.

Scenario 2:

While browsing at Blockbuster, an English teacher notices a new Hamlet video. After previewing it at home, she decides to show the entire movie to her students.

Scenario 3:

A Wood Shop teacher notices that a television program relevant to his current curriculum is going to be broadcast on The Learning Channel (TLC) the following evening. He plans to record the television program on a DVD and show a small portion of it to his students later in the week.

Scenario 4:

After a long week of taking standardized tests, a teacher decides to reward his students with a movie. Since the students had recently finished reading the novel *Charlie and the Chocolate Factory* by Ronald Dahl, the teacher decides to show the movie *Willy Wonka and the Chocolate Factory* with Gene Wilder.

Notes

Here are the answers to the scenarios:

Scenario 1:

The showing of movies for entertainment is a violation of the fair use guidelines. Even though the school staff did not rent the movies and the event is taking place after school hours, this is still a violation since it is occurring on school property. Disney has become very aggressive in the last few years about pursuing violations such as this one.

Scenario 2:

As long as the Hamlet video relates to her English curriculum, the English teacher is following fair use.

Scenario 3:

Since The Learning Channel (TLC) is a cable or satellite program, this would not be acceptable under the fair use guidelines unless permission is granted by The Learning Channel (TLC).

Scenario 4:

Showing this movie would be acceptable since the movie relates to curriculum being taught, and is not being shown just for entertainment purposes. The students could compare and contrast the movie and the novel.

Software and CD-ROMs

Fair Use Guidelines for Computer Software and CD-ROMs

The owner of a legitimate copy of the software and/or CD-ROMs may:

- make a backup copy of the computer software and make a single backup copy of computer documentation, including CD-ROMs.
- copy information from CD-ROMs such as encyclopedias, using the photocopying guidelines discussed earlier.

Discussion - Fair Use Guidelines for Computer Software and CD-ROMs

Read and evaluate the following scenarios to determine whether or not they exemplify fair use:

Scenario 1:

Mrs. Stevens has several computer software CD-ROMs that she uses with her Mathematics class. After a student broke one of the CDs in half, she decides to make back up copies of all her other software. She will keep one backup copy of each CD at home and at work.

Scenario 2:

Ms. Travis, a history teacher is using an encyclopedia CD-ROM to locate information about Harry Truman. After locating a perfect article, she copies one portion to use with her students. She makes a copy of the section for each student in her class.

Notes

Here are the answers to the scenarios:

Scenario 1:

Mrs. Stevens is not following the fair use guidelines. She is allowed to make one back up copy of each software disk she owns. The back ups can only be used if the original is damaged.

Scenario 2:

As long as Ms. Travis has not exceeded 1,000 words, or 10% of the entire article (whichever is less), then she has correctly followed the fair use guidelines.

Multimedia Projects

Fair Use Guidelines for Multimedia Projects

Students and teachers may use copyrighted materials in multimedia projects, if they follow the fair use guidelines listed below.

Limitations for using a multimedia project which contains copyrighted materials:

- Students may create, perform, and display multimedia productions for educational uses. The project may only be used in the class which it was created. The student may keep a copy in his/her portfolio. If more than one person created the presentation, each one may have one copy of the work.
- Teachers may create and display their own multimedia productions for face-to-face instruction with students. They may also use the production in a directed self-study for a student. The multimedia project may be used for remote instruction, provided there is a way to limit access and prevent copies from being made. Teachers may use their production for up to two years after the first instructional use with a class. It may be kept in his/her portfolio indefinitely. Only two copies may be made of the multimedia project.

Motion Media Limitations (film, video, television):

- May use up to 10% or three minutes, whichever is less, of an individual program

Text Limitations:

- May use up to 10% or 1,000 words, whichever is less of a novel, story, play, or other text. Also, an entire poem of less than 250 words or up to 250 words of a longer poem but no more than three poems by one poet or five poems by different poets from a single anthology.

Music, lyrics, and music video:

- May use up to 10%, but not more than 30 seconds from a single work. The basic character of the work must be preserved.

(More Multimedia Guidelines on the next page!!)

Notes

Multimedia Projects

Illustrations, cartoons, and photographs:

- A work may be used in its entirety but only if no more than 5 images from a single artist or photographer are used. If images are taken from a single collective work, no more than 10% or 15 images may be used.

Numerical Data Sets (databases or spreadsheets):

- May use up to 10% or 2,500 fields or cells, whichever is less.

Other considerations:

- Once you have reached the portion limitation from a single, copyrighted work, you cannot use the same copyrighted source for use in another project that occurs in the same semester, cycle, or term.
- Students in grades K-6 may not be able to rigidly adhere to the portion limits. However, when they are able, it is expected of them to bring the media into compliance, if the project is being kept for portfolio use.

How to state copyright information within a multimedia project:

On the first slide, a statement such as the following should be made:

This presentation contains copyrighted material used under the educational fair use exemption to the U.S. Copyright Law.

On the last slide, the student or educator must include copyright information for each piece of copyrighted material used in the presentation. (See Documentation of Sources, 14-15)

Notes

Copying from the Internet

Fair Use Guidelines for Copying from the Internet

- Teachers and students should assume that all materials on the internet are copyrighted, and use the fair use guidelines for text, images, sound files, and video.
- It is not permissible to make changes to someone else's web page and then post the page as your own.
- Resources from the web may not be reposted onto the internet without permission. However, links to legitimate resources can be posted.

Discussion - Fair Use Guidelines for Multimedia Projects and Copying from the Internet

Scenario 1:

A student in an elementary classroom is working on a project about the tundra. He is creating a PowerPoint presentation to share with the class. The student finds four pictures in a library book that he plans to scan and include in the presentation. He also wants to incorporate some photographs from various websites. At the end of the presentation, the student makes a slide that gives the proper credit for all the illustrations. The student does such a wonderful job that the classroom teacher wants to post the project on the school webpage.

Scenario 2:

A student in an English class is creating a poetry multimedia project. She includes several original poems and two of her favorite poems written by Naomi Nye. The student decides to add music to her presentation and includes 30 seconds from the theme for the movie *Legends of the Fall*. Her presentation is very creative. She does not cite her sources within multimedia project.

Scenario 3:

Four students work together to create a movie about famous artists. The students follow the fair use guidelines in determining how many images they are allowed to use. They write original text for the audio portion. When the project is presented, the other students in the class ask for a copy of the movie.

Notes

Here are the answers to the scenarios:

Scenario 1:

The student has followed all the fair use guidelines correctly. However, the teacher cannot post the PowerPoint presentation on the webpage, unless it is password protected. If permission is granted for using each of the illustrations, then the project could be posted.

Scenario 2:

The student correctly followed the guidelines for the amount of poetry and music included. However, her project did not follow fair use guidelines since she did not give credit to the poetry and music copyright holders.

Scenario 3:

If the students agree to make copies of the presentation for their classmates, they will not be following fair use guidelines. Only the students involved in creating the project are allowed to have a copy.

Source Documentation

Documentation of Sources

Notes

Just as students need to cite the books and periodicals they use to support their research, they must also cite online sources of information. Classroom Connect developed the following method to help students cite Internet sources as accessed through their Internet browsers. This method makes it easy for educators to check the veracity of every online source their students cite. We've also included new information specifying how to cite the graphics, sounds, and video clips students retrieve for use in their multimedia presentations. Works Cited entries are double-spaced and arranged alphabetically by Author or originator.

- EMAIL

Structure: Sender of email message <sender's email address>. Subject line of the message. Date of message (day, month, year). Email recipient <recipient's email address>.

Example:

Meredith, Paige <pmeredith@classroom.com>. "RE: Museums in Paris." 17 August 2001.

Christine Borrer <chrissyborrer@yahoo.com>.

- WORLD WIDE WEB

Structure: Author or originator. Title of item. [Online] Date of document or download (day, month, year). URL <http://address/filename>.

Example:

U.S. Census Bureau. "American FactFinder: Facts About My Community." [Online] 17 August

2001. <http://factfinder.census.gov/servlet/BasicFactsServlet>.

- ONLINE IMAGES

Structure: Author or originator. Description or title of image. [Online image] Date of document or download (day, month, year). URL <http://address/filename>.

Example:

USGS. "Map: Major Volcanoes in Ecuador." [Online image] 17 August 2001.

<http://vulcan.wr.usgs.gov/Volcanoes/Ecuador/Maps/map_ecuador_volcanoes.html>.

Source Documentation

Documentation of Sources—continued

Notes

- ONLINE SOUNDS

Structure: Author or originator. Description or title of sound. [Online sound] Date of document or download (day, month, year). URL <<http://address/filename>>.

Example:

Jussi Bjorling Home Page. "Di quella pira," aria from *Il Traviatore*, by Guiseppe Verdi.

[Online sound] 30 November 1999. <http://www.geocities.com/Vienna/Strasse/3468/bjorling.htm>>.

- ONLINE VIDEO CLIPS

Structure: Author or originator. Description or title of video clip. [Online video clip] Date of document or download (day, month, year). URL <<http://address/filename>>.

Example:

Zoological Society of San Diego. "Indian Rhino Calf Born at Park," e-zoo videos, San Diego Zoo.

[Online video clip] 17 August 2001. <<http://www.sandiegozoo.com/virtualzoo/videos/index.html>>.

Works Cited

Classroom Connect. "Citing Internet Resources." [Online] 25 January 2007

< <http://www.classroom.com/community/connection/howto/citeresources.jhtml>.>

Summary

Learning about Copyright Law and the Fair Use Guidelines is important for educators and students. As teachers, we always tell our students that it is not right to steal someone else's property. If copyrighted materials are not used within the fair use guidelines, those materials are being stolen. Educators need to model ethical and correct use of copyrighted materials, as well as teach students the rules for using those materials.

Classroom Activities

Activities to Use in the Classroom

Here is a list of possible activities that classroom teachers can use to teach students about Copyright Law and the Fair Use Guidelines.

- The teacher will prepare a lesson about Copyright Law and the Fair Use Guidelines. The students will discuss why this lesson is important. The teacher will then divide the students into small groups. Each group will be presented with a scenario (similar to the ones above) that is relevant to that particular class/grade level.
- There are many resources available for free that are no longer copyrighted. These items are in the public domain. Listed below (on the “Useful Websites” page) are several links that will direct you to various books, images, and music that are in the public domain. After leading a discussion about public domain, the teacher can direct the students to examine one of the public domain websites. One site that is very well constructed is the Discovery Clipart site (<http://school.discovery.com/clipart/>). After the students have looked at the type of artwork available, the teacher will direct them to the Copyright and Use Information page for Discovery Clipart (<http://school.discovery.com/clipart/copyright.html>). A link is provided at the bottom of the Discovery Clipart homepage, also. The students should read and discuss the guidelines for using the Discovery Clipart. Most public domain websites have information pages similar to the Discovery Clipart page. Students should be reminded to locate the copyright information page in order to properly cite the image, text, or audio they plan to incorporate into a project.
- After a discussion about the importance of following copyright law, the teacher will have the students read and discuss a high school cheating pamphlet that is currently in use at Lakeview High School in Battle Creek, Michigan, and then design a brochure of their own. (<http://academic.kellogg.cc.mi.us/k12lincolnm/cheating98.pdf>).
- To teach young students about copyright, the teacher should lead a discussion about owning property. The students will agree that if someone takes a valued toy, book, stuffed animal, etc. the owner would be very upset. Then, the teacher can explain how it is important to give credit to an author, illustrator or musician if using work from that person. A young student can be taught that it is not right to copy a story or picture from a book and then, tell everyone he/she created it. This lesson could be done prior to beginning a mini-research project.

Notes

Web Resources

Useful Websites to learn more about Copyright Law and the Fair Use Guidelines

Notes

General Websites

<http://www.copyright.gov/circs/circ1.html> - document from the U.S. Copyright Office – includes a link in Spanish

<http://www.ncei.org/blackboard/copyright.html> - easy to read chart summarizing fair use

<http://www.copyright.iupui.edu/checklist.htm> - fair use checklist

<http://www.mediafestival.org/quiz1.pdf> - copyright quiz

<http://www.mediafestival.org/answ1.pdf> - answers to above copyright quiz

http://www.education-world.com/a_curr/curr280a.shtml - article from Education World

http://www.ascd.org/authors/ed_lead/el200112_simpson.html - article from Educational Leadership

http://www.techlearning.com/db_area/archives/TL/2002/10/copyright.html - article from techLearning

http://www.techlearning.com/db_area/archives/TL/2002/10/copyright.html - article from techLearning

<http://www.electronic-school.com/0698f5.html> - article from Electronic School

http://www.cybersmartcurriculum.org/act_sheets/CY00_Stdnt_G45_L8.pdf - excellent worksheet to use with elementary age students

<http://www.lane.k12.or.us/media/images/copyguide01.pdf> - Oregon education service district copyright guideline manual

<http://groton.k12.ct.us/mts/cimhp01.htm> - educational use of music

Public Domain Websites

<http://www.unc.edu/~unclng/public-d.htm> - chart explaining public domain

<http://www.gutenberg.org/> - books available on the public domain

<http://mciunix.mci.k12.pa.us/~spjvweb/cfimages.html> - links to many public domain images sites

<http://pdphoto.org/> - public domain photographs

http://en.wikipedia.org/wiki/Wikipedia:Public_domain_resources – large listing of public domain items

<http://www.awesomeclipartforeducators.com/> - large collection of free clip art