



COPYRIGHT GUIDELINES FOR EDUCATORS

Knowing how much of a resource such as a book or song to use in a multimedia project or when it is okay to show a rented or purchased video to students is just the beginning of copyright and its many facets. The following information is compiled as a resource to help educators make the most informed copyright decisions possible.

To simplify the concept of copyright, it is important to begin with Section 107 of the Federal Copyright Law, which explains limitations on exclusive rights and the fair use of works. The Fair Use Doctrine is a legal principle that allows educators and students to utilize portions of copyrighted material, under certain circumstances, without express permission from the copyright owner of the material. In order to determine if use of the material is considered to be “fair” under copyright law, the educator can refer to various sets of appropriate copyright guidelines. Copyright guidelines for use of copyrighted resources in multimedia projects and for use of copyrighted videos in the classroom are highlighted in this section.

WHAT IS COPYRIGHT?

A copyright is a protection afforded under U.S. law to encourage individuals to create literary, dramatic, musical, artistic, and other intellectual properties.

What are the rights of a copyright owner?

- The right to reproduce or copy the work
- The right to prepare derivative works (i.e., works that are created from the original work)
- The right to distribute copies of the work
- The right to perform the work publicly (i.e., perform the work for a group of people who are not the creator’s family and close friends)
- The right to display the work publicly

(Public performance rights allow the copyright owner to perform the work at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered.)

FAIR USE

The Fair Use Doctrine provides educators with the right to make reasonable copies of copyrighted materials without the specific consent of the author for such purposes as commentary, criticism, teaching, news reporting, research, and scholarship. The guidelines permit the use of copyrighted works in teaching, if certain factors are considered, including:

- The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes.
- The nature of the copyright work (i.e., video, picture, text).
- The amount and substantiality of the portion used in relation to the work as a whole
- The effect of the use upon the potential market for or value of the work.

MULTIMEDIA GUIDELINES, LIMITATIONS, AND CITATIONS

In academic multimedia projects, students may use portions of lawfully acquired copyrighted works with proper credit and citations. They may retain them indefinitely in personal portfolios as examples of their academic work.

On the opening screen of projects and on printed materials, students and teachers must include that their presentation has been prepared under the Fair Use Doctrine of the U.S. Copyright Law and are restricted from further use.

Copyright Guidelines for Educators

Educators may claim fair use for their own productions providing these productions are:

- For face-to-face curriculum-based instruction,
- Demonstrations of how to create multimedia productions,
- Presented at conferences (educators may not share copies of actual production),
- For remote instruction as long as the distribution signal is limited,
- Kept for only 2 years.

Fair use ends when the multimedia creator loses control of his or her product's use, such as when others access it over the Internet.

If their presentation falls within the specific multimedia fair use guidelines, educators or students need not write for permission. However, educators and students are advised to note that if there is a possibility that their own educational multimedia project incorporating copyrighted works under fair use could later result in broader dissemination, whether or not as commercial product, it is strongly recommended that they take steps to obtain permissions during the development process for all copyrighted portions rather than waiting until after completion of the project.

Copying and Distribution Limitations

- Posting multimedia projects claiming fair use exemption on an unsecured website is prohibited.
- No more than 2 copies of the original production may be made. Only 1 copy may be placed on reserve for others to use for instructional purposes. An additional copy may be made for preservation purposes, and may be used or copied only to replace a used copy that has been lost, damaged, or stolen.
- If more than one person has created the multimedia presentation, each principal creator may retain only one copy.

Alteration Limitations

Multimedia selections falling within the above guidelines may be altered to illustrate a specific technique or to support a specific instructional objective. Notation of the alteration must be documented within the presentation itself.

Permission Requirements

Permission must be obtained for multimedia projects used for non-educational or commercial purposes, and for duplication or distribution of multimedia projects beyond the limitations outlined above. Letters of permission should include information about the person requesting the use, how the information requested will be used, how much of the work will be used, and the number of copies that will be made or the number of individuals who will receive the information.

Multimedia Project Citations

- Educators and students must credit sources, giving full bibliographic information when available.
- Educators and students must display the copyright notice and copyright ownership information if this is shown in the original source.
- Copyright information for images may be shown in a separate bibliographic section unless the presentation is being used for distance learning. In this case, the information must be incorporated within the image itself (i.e., it must appear on the screen when the image is viewed).

How Much May Be Used?

Databases/Numerical Data Sets

Up to 10% or 2,500 fields or cell entries, whichever is less, from a copyrighted database or data table may be used. A field entry is defined as a specific item of information (e.g., name, Social Security number) in a record of a database file. A cell entry is defined as the intersection where a row and a column meet on a spreadsheet.

Illustrations

A photograph or illustration may be used in its entirety. However, no more than 5 images of an artist's or photographer's work may be used. When using a collection of works, no more than 10% or no more than 15 images, whichever is less, may be used.

Internet

Care should be used in downloading any sites for use in multimedia presentations, because Internet sites

often combine both copyrighted and public domain sites and resources. Educators and students are advised to write for permission to use Internet resources and be mindful of the copyright ramifications of including embedded additional links to that particular site.

Music, Lyrics, and Music Video

Up to 10% of a copyrighted musical composition, but no more than 30 seconds, may be used. Up to 10% of a body of sound recording, but no more than 30 seconds, may be used. Any alterations made may not change the basic melody or the fundamental character of the work.

Text

Up to 10% of a copyrighted work or 1000 words, depending upon whichever is less, may be used. If an entire poem is less than 250 words, the entire piece may be used. If the poem is longer, 250 words or less may be used. No more than 5 poems (or excerpts) of different poets from an anthology may be used. Only 3 poems (or excerpts) from one particular poet may be used.

Video/Motion Media

Up to 10% of a copyrighted work or 3 minutes, whichever is less, may be used. The clip shown may not be altered in any way.

COPYRIGHTS AND VIDEO IN THE CLASSROOM

Educators and students alike know that video can be a very powerful tool for teaching many concepts. And, while hundreds of thousands of videos are designed, produced, and leased (ITV) specifically for the educational market, many creative educators find legitimate instructional uses for many non-instructional (non-ITV) videos. With the current ease of access to rented, purchased, and broadcast videos, educators and administrators many times wonder what is actually legal for a teacher to use without purchasing expensive educational, public performance rights for the program.

Videos can be divided into three major categories with some finer distinctions within those categories: ITV,

rented or purchased videos, and broadcast, cable, or satellite programs.

1. ITV

Many public television stations, including WVPT, lease instructional programs for the educators in their service region, ONLY, to record and use whenever they need during the lease period. Since the leases are usually renewed annually, educators do not need to be concerned with expiration dates unless the station does not renew a lease. When an ITV program is not renewed, erasure notices are sent to each school division and placed in the *ITV Newsletter* alerting teachers that they either need to erase their tapes of the series or else contract directly with the series distributor to purchase retention rights for the series. Also, see the ITV website at www.wvpt4learning.org for individual program information.

2. Rented or Purchased Videos

Rented and purchased videos seem to fall into two separate categories; but, unless EDUCATIONAL rights have been specifically purchased for a video, rented and purchased videos are treated exactly the same. Both types of programs may (or may not) carry the label “For Home Use Only.” Assume that it IS for home use only unless additional educational rights have been purchased or there is a statement specifically granting educational or public performance rights.

Purchased or rented videos are legal to use in the classroom for instruction under the FACE-TO-FACE Teaching Exemption ONLY IF all of the following conditions are met.

- The performance must be given by an instructor or pupil.
- The performance must take place at a non-profit educational institution.
- The teacher and students must be in the same room during the performance, and the performance must be a part of a regular instructional activity. Such videos may not be used for entertainment, reward, or any other non-instructional, supplemental use.
- The performance must take place in a classroom, or similar place devoted to instruction at that time.
- A lawfully made copy must be utilized.

Visit the Library of Congress’ website at <http://lcweb.loc.gov/copyright> for more information on the Face-to-Face Teaching Exemption.

3. Open Broadcast, Cable, or Satellite Programs

There are no across-the-board guidelines for use of videos recorded off air from open broadcast, cable, or satellite sources (except for ITV programs as noted in the first category). However, there are some guidelines in some areas and resources to find rights to programs in other areas.

- Non-ITV, PBS Programs – Many PBS programs carry extended educational rights of 1, 2, 3, or more years. A call to WVPT at 800-345-WVPT will let you know for certain. Or, consult the PBS website at www.pbs.org/teachersource/tvteachers.htm for individual program information.
- Open Broadcast Channels – These channels are the ones that can be received via antenna, without a cable service. Such programs may be recorded and used once in the classroom during the next 10 school days. Contact the channel directly or via the Internet to learn about educational rights and/or limitations.
- Cable Service Channels – No commonly agreed-to guidelines are available. Consult the Cable in the Classroom magazine for rights on individual programs and for contact information on cable programmers. A subscription to the magazine is usually available free to schools through their local cable company. Visit the following website for more cable in the classroom information: www.ciconline.com/
- Satellite Channels – No commonly agreed-to guidelines are available. Consult various satellite programming guides/magazines such as SATLINK for individual program rights information.

COPYRIGHT RESOURCES ON THE WORLD WIDE WEB

Educators and students are advised to exercise caution in using digital material downloaded from the web in producing educational multimedia programs or web pages, since most websites contain a mix of copyrighted and public domain works. Access to works on the web does not automatically mean that the information should be reproduced and used without permission or royalty payment. Beware! Some copyrighted works may have been posted to the web without the authorization of the copyright holder.

The following list of websites can be helpful in providing more detailed information regarding copyright law and guidelines.

U.S. Copyright Office—The Library of Congress www.loc.gov/copyright/

Find out copyright basics, search different pieces of legislation and current developments on the copyright horizon, and more on this government site.

A Visit to Copyright Bay www.stfrancis.edu/cid/copyrightbay/

Copyright Bay, a website with an inventive and user-friendly way of exploring all aspects of Copyright issues.

Title 17: Copyrights <http://www4.law.cornell.edu/uscode/17/>

Up to date information from the Legal Information Institute, covering issues such as copyright protection, infringement cases, and copyright ownership and transfer.

Intellectual Property Law <http://www.intelproplaw.com/>

The intellectual property law server provides information about intellectual property law including patent, trademark and copyright. Resources include comprehensive links, general information, space for professionals to publish articles and forums for discussing related issues.

Copyright & Fair Use (Stanford University Libraries) <http://fairuse.stanford.edu/>

The University of Stanford Library presents comprehensive information regarding fair use policy.

FindLaw for Legal Professionals <http://library.lp.findlaw.com/intellectualproperty.html>

Intellectual property documents, briefs, articles and books may be found on this legal website.

WWW Multimedia Law <http://www.batnet.com/oikoumene/>

This multimedia law site features information regarding web laws, copyright, licensing, and trademark.

10 Big Myths About Copyright Explained

<http://www.templetons.com/brad/copymyths.html>

Brad Templeton explores the ten greatest myths in regards to copyright.

The Copyright Website

<http://www.benedict.com/>

This site endeavors to provide real world, practical and relevant copyright information.

LawMoose World Legal Resource Center

<http://www.lawmoose.com/internetlawlib/105.htm>

This Internet law library provides specific information regarding user rights.

An Ethical Edge in Education: Cognizance of Copyrights and Copy Wrongs

<http://www.goehner.com/copyright.htm>

This site provides information presented at the International Conference, The Social and Moral Fabric of School Life.

What Are Trademarks, Patents, & Copyrights and Why Should I Care?

<http://www.copyright-resources.com/>

This site features questions and answers regarding copyright information.

When Works Pass into the Public Domain

<http://www.unc.edu/~uncnlg/public-d.htm>

This site features a table explaining what happens when a work passes into the public domain.

THE DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998

This act was signed into law on October 28, 1998. The DMCA is divided into five titles, with each title briefly summarized. For a more extensive explanation of the DMCA, visit the U.S. Copyright Office website at <http://lcweb.loc.gov/copyright>.

1. The World Intellectual Property Organization (WIPO) Copyright and Performances and Phonograms Treaties Implementation Act of 1998 — This Act implements the WIPO treaties.

Those treaties require parties to protect preexisting works from other member countries that have not

fallen in the public domain in the country of origin through the expiration of the term of protection.

2. The Online Copyright Infringement Liability

Limitation Act — This Act creates limitations on the liability of online service providers for copyright infringement when engaging in certain types of activities.

3. The Computer Maintenance Competition Assurance Act — This act permits the owner or lessee of a computer to make or authorize the making of a copy of a computer program in the course of maintaining or repairing that computer. The exemption only permits a copy that is made automatically when a computer is activated, and only if the computer already lawfully contains an authorized copy of the program. The new copy cannot be used in any other manner and must be destroyed immediately after the maintenance or repair is completed.

4. Six Miscellaneous Provisions

- Functions of the U.S. Copyright Office — This provision confirms the Copyright Office's authority to continue to perform the policy and international functions that it has carried out for decades under its existing general authority.
- Ephemeral Recordings for Broadcasters — This provision allows ephemeral recordings, or recordings that are to be used for a short, temporary period of time, to be made in order to facilitate a transmission (e.g., a radio station can record a set of songs and broadcast from the new recording rather than from the original CDs, which would have to be changed "on the fly" during the course of a broadcast).
- Distance Learning — This provision directs the Copyright Office to make recommendations to Congress on how to promote distance education through digital technologies.
- Library Exemptions — This provision allows nonprofit libraries to make up to three copies of a work (i.e., digital or facsimile) for preservation or interlibrary loan, as long as the digital copies are not made available to the public outside the library premises.
- Webcasting — This provision expands the Digital Performance Right in Sound Recordings Act of 1995 (DPRA) to include webcasting as a new category of "eligible nonsubscription transmissions." Now, making a single ephemeral recording to facilitate the digital transmission of sound

recording from the Internet is considered a subscription transmission and is subject to a statutory license.

- **Applicability of Collective Bargaining Agreement Obligations in the Case of Transfers of Rights in Motion Pictures** — This provision addresses concerns about the ability of writers, directors, and screen actors to obtain residual payments for the exploitation of motion pictures in situations where the producer is no longer able to make these concerns. The Act imposes obligations on transferees to make residual payments that the producer would be required to have the transferee assume under the relevant collective bargaining agreement.

5. The Vessel Hull Design Protection Act — This Act protects a design on hulls or decks of vessels no longer than 200 feet long as soon as a vessel embodying the design is made public or a registration for the design is published.

(The excerpts above are taken from “The Digital Millennium Copyright Act of 1998, U.S. Copyright Office Summary” and should not be considered in any way a complete summation of the DMCA itself. This is a simplified version of parts of the summary only.)

THE 1988 BERNE CONVENTION IMPLEMENTATION ACT

The original act was named the Convention for the Protection of Literary and Artistic Works and was signed at Berne, Switzerland on September 9, 1886. This revised act went into effect March 1, 1989, and made the use of a copyright notice optional of works published on and after March 1, 1989. Since March 1, 1989, any intellectual property recorded in tangible form is protected by copyright whether or not a notice of copyright is included on the work.

COPYRIGHT WORKSHOPS FROM WVPT

While the ITV staff at WVPT does not have legal credentials, they do have many years of experience giving workshops for teachers and administrators on issues surrounding copyright; they also have resources and

professional contacts to keep themselves informed on copyright issues and to help educators understand those issues. These workshops help educators identify resources and examine the motivations behind various guidelines, especially the concepts and legal provisions of “fair use” and the “face-to-face teaching exemption.” For a workshop on copyright issues related to video or the Internet for teachers and/or administrators, call the WVPT Educational Services Department.



LEARNING LINK

