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The Educator's Guide to Copyright and Fair Use

By Hall Davidson

Back by popular demand, a new version of our practical quiz by educator and multimedia guru Hall Davidson.



This is the way it happens: You're a teacher. You find the perfect resource for a lesson you're building for your class. It's a picture from the Internet, or a piece of a song, or a page or two from a book in the library or from your own collection. There's no time to ask for permission from who owns it. There isn't even time to figure who or what exactly does own it. You use the resource anyway, and then you worry. Have you violated copyright law? What kind of example are you setting for students?

Or you're the principal. You visit a classroom and see an outstanding lesson that involves a videotape, or an MP3 audio file from the Web, or photocopies from a book you know your school doesn't own. Do you make a comment?

The Original Intent

Were the framers of the Constitution or the barons of Old English law able to look over your shoulder, they would be puzzled by your doubts because all of the above uses are legal. Intellectual property was created to promote the public good. In old England, if you wanted to copyright a book, you gave copies to the universities. According to Supreme Court Justice Sandra Day O'Connor, "The primary objective of copyright is not to reward the labor of authors...but encourage others to build freely upon the ideas and information conveyed by a work." In other words, copyright was created to benefit society at large, not to protect commercial interests.

Nowhere is this statement truer than in the educational arena. In fact, educators fall under a special category under the law known as "fair use." The concept, which first formally appeared in the 1976 Copyright Act, allows certain groups to use intellectual property deemed to benefit society as a whole, e.g., in schools for instructional use. However, it deliberately did not spell out the details. Over the years, fair use guidelines have been created by a number of groups-usually a combination of educators, intellectual property holders, and other interested parties. These are not actual laws, but widely accepted "deals" the educational community and companies have struck and expect each other to follow.

What follows is a new version of "The Educators' Lean and Mean No FAT Guide to Fair Use," published in Technology & Learning three years ago. As you take the quiz on page 28, you will learn that no matter the technology-photocopying, downloads, file sharing, video duplication-there are times when copying is not only acceptable, it is encouraged for the purposes of teaching and learning. And you will learn that the rights are strongest and longest at the place where educators need them most: in the classroom. However,

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schools need to monitor and enforce fair use. If they don't, as the Los Angeles Unified School District found out in a six-figure settlement, they may find themselves on the losing end of a copyright question.

Know Your Limitations-and Rights

It has never been a more important time to know the rules. As a result of laws written and passed by Congress, companies are now creating technologies that block users from fair use of intellectual property -for example, teachers can't pull DVD files into video projects, and some computers now block users from inputting VCRs and other devices. In addition to helping schools steer clear of legal trouble, understanding the principles of fair use will allow educators to aggressively pursue new areas where technology and learning are ahead of the law, and to speak out when they feel their rights to copyright material have been violated.

Now, [take a quiz](#) that will assess your knowledge of what is allowable-and what isn't-under fair use copyright principles and guidelines. There's also a [handy chart](#) that outlines teachers' fair use rights and responsibilities. Good luck.

Fair to Share?

Speaking of copyright, we encourage you to photocopy this article for your staff — just kindly tell them you found it on techLEARNING.com!

[Hall Davidson](#) is executive director of educational services and telecommunications at KOCE-TV in California. He has received numerous awards, including an Emmy for Best Instructional Series.

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