

Copyright Basics

John Brim

Resources Development & Evaluation
Instructional Technology Division
919-807-3288, jbrim@dpi.state.nc.us

What is Copyright?

Five Fundamental Rights: Reproduction, Adaptation, Publication, Performance, and Display

What is Fair Use?

- A part of the copyright law that defines the limitations on exclusive rights of copyright holders.

What Conditions Must I Meet to Claim Fair Use?

- The copy is used in a non-profit educational institution or with homebound students.
- The copy is used in face-to-face instruction.
- The copy is used in support of curricular objectives.
- The copy is legally obtained.

Can you pass the Fair Use Test?

Fair Use Factor #1

- The purpose and character of use
 - Is the use for commercial or nonprofit, educational purposes?
 - Is the criticism, comment, news reporting, teaching, scholarship, or research?

Fair Use Factor #2

- The nature of the copyrighted work
 - Is the work intended for educational use?
 - Is the work creative or factual? It is easier to claim a fair use exemption for nonfiction works than creative works.

Fair Use Factor #3

- The amount of the copyrighted work used. Less is better than all when claiming fair use. The amount allowed by fair use guidelines varies with original's format.

Fair Use Factor #4

- The effect of the use on the potential market value of the work.

Photocopying Fair Use:

- A teacher can make a single copy of a book chapter, magazine or newspaper article, picture from a book, magazine, or newspaper for personal research or for teaching.
- Multiple Copies - A teacher can make multiple classroom copies of printed works.
 - A complete poem if less than 250 words or 250 words from a longer poem
 - A complete article, story, or essay if less than 2,500 words
 - 1,000 words or 10% (whichever is less) of an article or story more than 2,500 words long
 - A single graphic or picture from book or issue
 - Combinations of prose, poetry, and illustrations up to 10% of total
 - users must include copyright notice on the item
- Exception: children's/picture books less than 2,500 words
 - excerpt no more than two pages
 - may not contain more than 10% of total words
- Conditions
 - The number of copies may not exceed one per pupil
 - The use is spontaneous and there is not enough time to contact copyright holder for permission
 - Copies may not be used year after year
- Thou Shall Not
 - copy consumable materials such as workbooks, exercises, standardized tests, test booklets, and answer sheets
 - make copies to save money.
 - be directed by higher authority to make illegal copies

Audiovisual Works Fair Use (sound recordings, video and film)

Rental of videotapes for classroom use

Fair Use

- “Guidelines for Off-the-Air Recording of Broadcasting Programming for Educational Purposes” - adopted by Congress in 1981
- “Home Use Only” Label
 - 1985 interpretation by the NC Attorney General:
 - use is allowed under a specific exemption is found in Section 110 (1) of the Copyright Statute - “performance or display of a work by instructors or pupils (be) in the course of face-to-face teaching activities of a non-profit educational institution, in a classroom or similar place devoted to instruction...”

Suggested Guidelines

- Rent tapes in school’s name
- Where rental agreements, contracts, or rental cards are used, insist that such agreement be in the school’s name
- Assure the rented tape will be for instruction, not entertainment or reward

Section 110(4) - Certain Other Nonprofit Performances - Guidelines for Educational Use of Music adopted in 1976 permits use of copyrighted music in situations other than classroom teaching and learning. Conditions for claiming this exemption include:

- Works used are non-dramatic musical works (for example, use of plays or operas is not permitted).
- No commercial advantage is gained by the use and no individual may profit for the use.
- No payment of performers, promoters, or organizers is permitted.
- No admission charge may be collected. However, if a charge to cover expenses is collected the proceeds must be used for educational or charitable purposes.
- The copyright owner may prevent a performance by serving notice of objection (notification of the copyright holder is not required)

Commercial television programs - Fair Use guidelines

- Broadcast programs are defined as television programs transmitted by television stations for reception by the general public without charge
- Broadcast programs may be:
 - recorded and retained for a period of 45 calendar days from the date of recording.
 - School days do not include weekends, holidays, vacations, examination periods, or other scheduled interruptions.
 - used once by individual teachers in classroom teaching activities.
 - used with students only during first 10 school days.
 - repeated once during the first 10 school days for reinforcement if necessary.
 - used after 10 days only by a teacher for evaluation purposes.
 - made only at request of and used by individual teachers.
- Broadcast programs must be erased at the conclusion of the retention period.
- Broadcast programs may not be regularly recorded in anticipation of requests.
- No program may be recorded for an individual teacher more than one time regardless of number of times it is broadcast.
- A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under fair use guidelines (subject to same provisions as original).
- Recording need not be used in their entirety.
- Recordings may not be altered from their original content.
- Recordings may not be physically or electronically combined or merged into teaching anthologies or compilations.
- All recordings must include the copyright notice.
- Premium cable channels are not considered broadcast channels since they are not open to the general public free of charge.

Guidelines for Microcomputer Software

- 1980 amendment to 1976 Copyright Act that defined computer programs.
- Copying is an infringement whether it is done for sale, free distribution, or copier’s own personal use.
- Liability for infringement usually falls on party owning the computer.
- Lending, renting, or leasing software is illegal without permission.

Microcomputer Software

- With 2 exceptions, making copies of software is not allowed under fair use:
 - 1 backup archival purposes only. This copy may not be used unless original is destroyed and the backup copy must be destroyed when rights to program cease.
 - 1 copy may be created on the computer's hard drive in order to make the program operate

Software License

- You don't buy software, you borrow it
- Read the license for any permissions granted by the copyright holder.

Computer graphics (paintings, photos, diagrams, charts, line drawings, etchings)

You may:

- make a single copy for personal research.
- make multiple copies IF:
 - the test of spontaneity is met.
 - the copy is used in only one course.
 - the copying does not occur more than nine times per course.
 - no more than one graphic is used (scanned/photographed) per book.

What is Adaptation?

- Adaptation is changing the media format of an original work or modifying the work. You may NOT enlarge, modify, or convert a copyrighted work to a different medium without permission.

Multimedia Guidelines

Students and teachers must state on the opening screen of their presentations that they used copyrighted materials, that the presentation was prepared under fair use exemption of the U.S. Copyright Law, and that further distribution of copying of the contents is not permitted.

Educators may claim fair use for their own productions providing these productions meet the conditions and tests of fair use

How much text may I use in a multimedia presentation?

- Up to 10% or 1000 words of a copyrighted work may be used, whichever is less.
- An entire poem if less it is less than 250 words.
- 250 words or less may be used from a longer poem.
- No more than 5 poems or excerpts of different poets may be used from a poetry anthology.
- Only 3 poems or excerpts may be used from a single poet in a presentation.

How much motion media (video, animation)?

- Up to 10% of a copyrighted work or 3 minutes (whichever is less) of video may be used.
- Video clips cannot be altered in any way to change their intent or artistic integrity.

How many photographs may I use in a multimedia presentation?

- No more than 5 images of an artist's or photographer's work may be used in a single presentation.
- When using photographs from a collection, no more than 10% or 15 images (whichever is less) may be used.
- A photograph or illustration must be used without cropping or alteration.

How much music may I use in a multimedia presentation?

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

May I copy and distribute my own or my students' multimedia presentations?

- Do not post multimedia projects claiming fair use exemption on an unsecured web site. This constitutes publication.
- No more than 2 copies of the original production may be made.
- A single copy may be placed on reserve for others to use for instructional purposes.
- An additional copy may be made for preservation purposes, but may be used or copied only to replace a used copy that has been lost, damaged, or stolen
- If a group of students create a multimedia presentation, each student may keep a copy.

Do I have to cite files used in multimedia presentations?

- Teachers and students must credit the source of any copyrighted materials used in their presentations. A notice on the title page of the presentation is required. Full bibliographic information must be included in the presentation, and a copyright symbol should appear next to any copyrighted materials used.
- Copyright information for images may be shown in a separate bibliographic section.

Additional Resources

Simpson, Carol. Copyright Catechism: Practical Answers to Everyday School Dilemmas. Worthington: Linworth, 2005

Simpson, Carol. Copyright for Schools: A Practical Guide for Schools, Fourth Edition. Worthington: Linworth, 2005

Becker, Gary H. Copyright: A Guide to Information and Resources, Third Edition. Lake Mary, 2003

Useful Copyright Web Sites

10 Big Myths about copyright explained

A Visit to Copyright Bay

American Library Association Copyright Tutorial

Association for Information Media and Equipment (AIME)

Citations on NC WiseOwl

<http://www.ncwiseowl.org/zones/professional/Conferences/Copyright.doc>.

The Citation Machine

<http://citationmachine.net/>.

The Copyright Advisory Network

<http://www.librarycopyright.net/>

Copyright Kids

www.copyrightkids.org/cbasicsframes.htm

Copyright Management Center

<http://www.copyright.iupui.edu/index.htm>

Copyright for Teachers and School Librarians

<http://users.mhc.edu/facultystaff/awalter/Brim%20site/index.html>

Copyright or Wrong!

<http://nditsvns04.its.state.nc.us/ramgen/dpi/USDLC/PRE2005/BrimCopyright.rm>

Copyright Term and the Public Domain

www.copyright.cornell.edu/training/Hirtle_Public_Domain.htm

The Copyright Website

www.benedict.com/

Crash Course in Copyright

www.utsystem.edu/OGC/IntellectualProperty/cprtindx.htm#top

Creative Commons

<http://creativecommons.org/>.

Fair Use Checklist from Indiana University

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

A Fair(y) Use Tale

<http://www.facstaff.bucknell.edu/efaden/>

FreePlay Music Library

www.freeplaymusic.com.

Guidelines for Educational Use of Music – 1976

<http://www.copyright.ips.k12.in.us/compliance/performances/default.aspx>

<http://www.lib.jmu.edu/org/mla/faq/performing%20rights/Performance%20Permission.asp>

Internet School Library Media Center, James Madison University

falcon.jmu.edu/~ramseyil/copy.htm

The Instructors' Guide to Internet Plagiarism

www.plagiarized.com

Move Licensing USA

<http://www.movlic.com/k12/schools.html>

Newton-Conover City Schools Copyright Flyer. Fountain, Shawn.

<http://www.nccs.k12.nc.us/fairuseflyer.pdf>

TechLearning: Copyright and Ethics

www.techlearning.com/hot_topics/copyright.jhtml

U.S. Copyright Office

www.lcweb.loc.gov/copyright/

University of Texas

www.utsystem.edu/ogc/intellectualproperty/offsite.htm

When Works Pass into Public Domain Web site

<http://www.unc.edu/~unc1ng/public-d.htm>

This handout is available at <http://www.ncwiseowl.org/zones/professional/Conferences/Copyright.doc>.

In compliance with federal laws, NC Public Schools administers all state-operated educational programs, employment activities and admissions without discrimination because of race, religion, national or ethnic origin, color, age, military service, disability, or gender, except where exemption is appropriate and allowed by law.