

# Copyright in the Classroom



**What is Copyright?** *Copyright is a form of intellectual property law protects the creators of original works including literary, dramatic, musical, and artistic works. Examples include poetry, novels, movies, musical works, software, and even architecture ("Copyright in general," 2006.) One of the rights accorded to the owner of copyright is the right to reproduce or to authorize others to reproduce the work*

**What does this mean for me?** *For educators in the classroom it is important that any reproduction of copyrighted works falls within the bounds of **Fair Use** or under the guidelines of the **TEACH Act**.*

**Fair Use?** *Fair Use (AKA section 107 of the Copyright Act) is intended to allow the use of copyrighted works reporting, critical commentary, parody, research, and most importantly for us **education**. Unfortunately there are no hard and fast rules for determining Fair Use, it is determined on a case-by-case basis using four factors:*

- © The purpose and character of the use, including whether it is for commercial use or for nonprofit educational purposes. *Courts have traditionally favored nonprofit organizations in Fair Use cases, especially where the work is being used for education but this is not a guarantee.*
- © The nature of the copyrighted work. *Courts have recognized that there is a difference between reproducing a short news item and a complete musical score based on the differences in the nature of the work. However, things like workbooks and standardized testing materials are not reproducible under Fair Use.*
- © The amount and substantiality of the portion used in relation to the copyright-protected work as a whole. *Generally, the more of an original work you reproduce the less likely it will be considered Fair Use but there is no set limit.*
- © The effect of the use on the potential market for or value of the copyright-protected work. *Does or will the reproduction cause an economic loss for the copyright holder. Will this affect the market value of the original work? If the answer to question either is, "Yes," it most likely is not Fair Use (Copyright clearance center, inc., 2008.)*

**The TEACH Act?** *The Technology, Education and Copyright Harmonization Act of 2002, or more simply known as the TEACH Act helped address concerns about transmitting copyrighted materials digitally to students as part of a cyber-school or distanced education program. To employ the TEACH Act there are five basic requirements:*

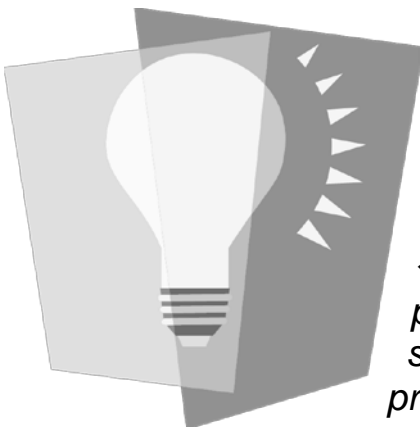
- © You must be an accredited non-profit institution. Elementary and secondary schools are by default considered a part of this group.
- © The institution must establish copyright policies. However, the law does not specify the content or management of the policy.
- © The institution must provide accurate information regarding copyright law to the staff and faculty. This poster would be a serviceable example of this.
- © The institution must notify students of the copyright status of course materials. To prevent students from unknowingly violating copyright law.
- © Any transmission of digital or digitized media must be reserved solely for enrolled students. Digital materials should not be "posted to the web" where anyone can access them they should be behind a password or distributed directly to the students ("distance education and," 2013.)

One of the biggest benefits of the TEACH Act is that it makes provisions for educators to digitize analog works. The new law permits digitization of some analog works, but in most cases only if the work is not already available in digital form. One of a kind audio, visual, or even print media can now be shared with students digitally. Additionally, under the TEACH Act Instructors may use a wider range of works in distance learning environments, students may participate in distance learning sessions from virtually any location, and instructors have increased freedom when it comes to storing, copying and digitizing materials ("The teach act," 2005.)



### **So What Now? Here are a few hints for Copyright and Fair Use**

- ✓ *When in doubt assume that the material is copyrighted.*
- ✓ *Seek permission from the copyright holder whenever possible.*
- ✓ *If you do not know who the copyright holder is copyright.gov has suggestions to help you find the owner.*
- ✓ *The Internet is NOT public domain, always assume materials found online are copyrighted (Burns,2013.)*
- ✓ *When copying poetry no more than 250 words even if that's the entire work or merely an excerpt. (Copyright definitions, 2013.)*
- ✓ *You can copy complete prose works up to 2,500 words OR excerpts of 10% or 1000 words whichever is less from larger prose works (Copyright definitions, 2013.)*
- ✓ *When incorporating video into a multimedia presentation you may use up to 10% or 3 minutes, whichever is less, can be used for a copyrighted motion media work (Dolak, 2010.)*



- ✓ *When using audio up to 10%, but no more than 30 seconds, of the music and lyrics from a single individual work. No alteration(s) of the music and/or lyrics are allowed (Dolak, 2010.)*
- ✓ *Creative Commons ([search.creativecommons.org](http://search.creativecommons.org)) provides a search engine for media that you may use or alter sometimes requiring nothing more than an attribution in your project.*

## References

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