

Copyright Basics

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Having a copyright means that no one can use the work without permission.

- Copyright is automatic. You do not need to put a © on it or register it.
 - Between 1976 and 1989, you did have to put © on it.
- Copyright protects expression; not ideas.
 - Originality is a requirement.
- The opposite of copyright is Public Domain
 - Once something is in the public domain, it cannot be copyright protected.
 - Collections of facts are in the public domain (phone books, lists, etc.)
- The owner of the copyright is the creator unless the work was created as a duty of an employee
 - Your employer may own the copyright to your lesson plans and web pages made for work
 - Schools usually do not enforce this
- Everything published before 1923 is in the public domain. Some other things are, but you have to check.

Fair Use Exemptions to copyright – if something is copyrighted, consider these 4 factors to determine if your use is fair:

The four factors of fair use:

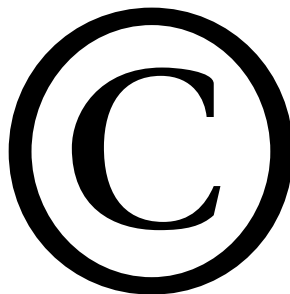
1. The purpose of the use
2. The nature of the copyrighted work
3. The amount of the work being used
4. The effect on the potential market for the work

For schools this means:

1. The work must be used in face to face instruction as an integral part of the curriculum
2. It must be used in the classroom or school library; not in a public part of the school
3. The copy used must be legally acquired (purchased, rented, or borrowed from a library)
4. The amount used must be no more than needed for the educational purpose

For public libraries this means:

1. You better have the rights or get permission
2. Exception: “performing” a book for library story times is OK



Copyright problem examples: (discussion/answers at the end of the presentation)

1. A student writes a short story parody of *Holes* (Newbery award winning book by Luis Sachar) in which the best kids in school go to a summer camp where they are required to fill up holes left by the bad students. He gets an A on it in his creative writing class, and he wishes to submit it to a magazine for publication. Does he need permission from the publisher or the author of *Holes*?
2. A teacher makes a PowerPoint that combines parts of all her students' PowerPoint presentations that they created in class. She wishes to show this to parents at the annual open house. What does she need to do to make this happen legally?
3. A student uses a CD of music by Frank Sinatra as background music for a presentation about WWII home life. The presentation is so good that it wins an award at the History Day event at his school. His teacher wants to show it at the State Social Studies conference. Which, if any, of these uses is illegal?
4. A tired old teacher has been using the same copied magazine articles and copied excerpts from books in his Social Studies class for twenty years. At what point did she start violating copyright?
5. A teacher wants to use an article from that morning's paper as a writing prompt in her English classes. She asks Johnny Dogood, the student who is always waiting for her before the first period bell, to copy it for her in the office. Who, if anyone, violated copyright?
6. The humanities teacher went to MOMA and took digital pictures of some of the art. He creates a PowerPoint presentation for his humanities class using these pictures and comparing them to pictures of Renaissance paintings which he downloaded from the Louvre site on the Internet. Is this legal? Which parts are and which not, if any?
7. After he shows it to his class, he decides to become a consultant and take this show on the road, presenting it to thousands of people in public places. Is there a copyright violation now?
8. A teacher makes a list of web sites about chemical elements and posts it on the Internet for her students to use. Each site listed contains a short synopsis of the content and a link to the site. Is this legal?
9. A student uses popular music for background during a PowerPoint presentation and shows it in class. The teacher thinks this is a great idea, so over the summer he prepares several examples of PowerPoint presentations using popular music, which he shows to his next class. Has anyone violated copyright?
10. A community theater company would like to put on a dramatic reading of *Look Homeward Angel* with actors reading the book in front of a paying audience. Would this be a copyright violation?
11. A college student writes a paper in which he quotes extensively from one web site. He either puts the quotes in quotation marks or paraphrases. He always gives credit to the author of the web page using proper MLA format. What are his violations?

Answers: It depends... Note: some copyright experts may disagree with my responses.

1. It is legal to make a parody of a copyrighted work. And it's a fun, highly educational assignment which requires students to use high level thinking skills.
2. The students own the copyright to their own PowerPoints, but there is implied consent given to the teacher for this type of use when they hand them in. However, to make it legal and to emphasize the importance of copyright compliance you could have the children (and ideally their parents since the students are minors) sign a paper allowing you to use their work.
3. Frank Sinatra's music is copyrighted. Using it in the classroom and at the school's history day event is probably fair use – fill out the form. Using it at the teacher's conference is also probably fair use. Again, fill out the fair use form and include it in your handouts. Also check with the state event's coordinators – some have purchased ASCAP and BMI licenses, others have guidelines that make the limits clear.
4. The first violation occurred when she did not ask for permission if there was time. Also, since permissions are usually given for one-time use, she may have to ask for permission every year. OR she could use the school's Ebsco or other subscription service to access the documents. Permissions are taken care of by these services.
5. This is OK. Although she should make the copies herself, I can't imagine anyone would fault her for asking a child to do the actual copying. If she wishes to use these again the next year, she must ask for permission.
6. The Louvre's web pictures are not copyrightable if they are simple representations of works in the public domain. MOMA's modern works which are still under copyright cannot be legally copied in any form. However, this could be considered fair use for the first year. After that see below or ask permission.
7. Check the copyright on any work painted 1923 or later, then see if MOMA has a slide or picture of the work for sale. You could also show any pictures on their web site without violation.
8. Absolutely legal. A description of the web sites is just a compilation of facts like a phone book and/or your opinions, which are yours. The links allow the users to view the original creation (web site) as it was intended. Yes, this includes non-flattering annotations.
9. Probably fair use in the classroom. Why not use less than 30 seconds of each song in the presentation and avoid any question?
10. Look it up. The book was written in 1929. Thomas Wolfe lived until 1938. There is a play of the book that was published in 1957. The book has been in continuous publication since then, so chances are it is still copyrighted, and a check with the copyright clearing house confirms this. The only exception that allows for dramatic readings in the copyright law is in public libraries – people are allowed to read books aloud in storytimes or other organized events. The theater company needs to get permission.

11. This is legal because students have broad rights to use copyrighted material in their studies and assigned papers, and it is not plagiarism, although the grade is up to the professor.