

Central Rivers AEA Copyright Regulations

Copyright is a form of legal protection automatically provided to the authors of “original works of authorship,” including literary, dramatic, musical, and artistic works. Copyright protections arise automatically the moment an original work is fixed in a tangible medium of expression. It does not need to be registered, published, or have a copyright notice on it. Works found on the Internet should be assumed to be protected by copyright law, even if it is not stated on the site.

U.S. copyright law generally gives the author/creator or owner of an original creative work an exclusive right to:

- * Reproduce or distribute the original work to the public
- * Create new works based upon the original work
- * Perform or display the work publicly

Violation of one of these rights is called copyright infringement.

Central Rivers AEA employees and students may make copies of copyrighted materials (print and non-print) that fall within the following guidelines. Where there is reason to believe the material to be copied does not fall within these guidelines, prior permission shall be obtained from the publisher or producer. Assistance will be provided by the Information and Technology service area if needed. Agency employees and students who fail to follow this procedure may be held personally liable for copyright infringement and may be subject to discipline by the board.

Under the "fair use" doctrine, unauthorized reproduction of copyrighted materials is permissible for such purposes as criticism, comment, news reporting, teaching, scholarship or research. Under the fair use doctrine, each of the following four standards must be met in order to use the copyrighted document:

- Purpose and Character of the Use – The use must be for such purposes as teaching or scholarship.
- Nature of the Copyrighted Work – The type of work to be copied.
- Amount and Substantiality of the Portion Used – Copying the whole of a work cannot be considered fair use; copying a small portion may be if these guidelines are followed.
- Effect of the Use Upon the Potential Market for or value of the Copyrighted Work – If resulting economic loss to the copyright holder can be shown, even making a single copy of certain materials may be an infringement, and making multiple copies presents the danger of greater penalties.

Fair Use Guidelines for Educational Multimedia

Conference of Fair Use

The Conference of Fair Use (CONFU) generated a set of fair use guidelines for various electronic formats in an attempt to meet the problems encountered with various electronic formats. The CONFU guidelines are not law, but they can serve as a purposeful attempt to apply fair use. The items listed below are only a summary of CONFU guidelines relevant to Central Rivers AEA not found elsewhere in this document.

Students may incorporate portions of copyrighted materials in producing educational multimedia projects such as videos, PowerPoints, podcasts and web sites for a specific course, and may perform, display or retain the projects.

Educators may perform or display their own multimedia projects to students in support of curriculum-based instructional activities. These projects may be used:

- In face-to-face instruction;
- In demonstrations and presentations, including conferences;

- In assignments to students;
- For remote instruction if distribution of the signal is limited;
- Over a network that cannot prevent duplication for fifteen days, after fifteen days a copy may be saved on-site only; or,
- In their personal portfolios.

Educators may use copyrighted materials in a multimedia project for two years, after that permission must be requested and received.

Agency employees and students have access to all resources included within Iowa AEA Online. Access and use of these resources fall under the licensing agreements negotiated with the individual vendors and are available for use in all accredited K-12 public and private schools and CRAEA offices. Copyright guidelines for each of the resources can be found on the Iowa AEA Online website.

The following limitations restrict the portion of any given work that may be used pursuant of fair use in an educational multimedia project:

- Motion media: ten percent or three minutes, whichever is less;
- Text materials: ten percent or 1,000 words, whichever is less;
- Poetry: an entire poem of fewer than 250 words, but no more than three poems from one author or five poems from an anthology. For poems of greater than 250 words, excerpts of up to 250 words may be used, but no more than three excerpts from one poet or five excerpts from an anthology;
- Music, lyrics and music video: Up to ten percent, but no more than thirty seconds. No alterations that change the basic melody or fundamental character of the work;
- Illustrations, cartoons and photographs: No more that five images by an artist, and no more than ten percent or fifteen images whichever is less from a collective work;
- Numerical data sets: Up to ten percent or 2,500 field or cell entries, whichever is less;

Fair use does not include posting a student or educator's work on the Internet if it includes portions of copyrighted materials. Permission to copy shall be obtained from the original copyright holder(s) before such projects are placed online. The opening screen of such presentations shall include notice that permission was granted and materials are restricted from further use. Notice should also be given that certain materials in the presentation were utilized under the multimedia fair use exemption.

In distance education, institutions where information is transmitted over the Internet to enrolled students, there have to be "technological limitations" on access. This means that only enrolled students can access the information by using a password or a PIN number.

Authorized Reproduction and Use of Copyrighted Material Reminders

- Materials on the Internet should be used with caution since they may, and likely are, copyrighted.
- Care should be taken in the use of YouTube, or other video clip distribution sites, footage to make sure that Fair Use Guidelines are applicable and that the video itself contains no copyright infringement. For example, the YouTube Accounts and Policies regarding copyright states: *The rights to any screen shots or footage of third party content on our site are not ours to grant. You would need to follow up with the individual content owners regarding the rights to this footage. You may want to try emailing the user through your YouTube account.*
- For works on sites claiming to be in the public domain, you will have to judge whether or not these claims are trustworthy, keeping in mind that such claims will not protect you should a copyright holder object to your use. Similar assessments will need to be made about sites

purporting to give permission to use. ***Only the real copyright holder, or those authorized by him or her, can give permission.***

- Proper attribution (author, title, publisher, place and date of publication) should always be given.
- Notice should be taken of any alterations to copyrighted works, and such alterations should only be made for specific instructional objectives.

Care should be taken in circumventing any technological protection measures. While materials copied pursuant to fair use may be copied after circumventing technological protections against unauthorized copying, technological protection measures to block access to materials may not be circumvented.

Public Domain

Public domain works are not restricted by copyright and do not require a license or fee to use.

There are three main categories of public domain works:

1. Works that automatically enter the public domain upon creation, because they are not copyrightable, such as:
 - a. Titles, names, short phrases and slogans, familiar symbols, numbers
 - b. Ideas and facts (e.g., the date of the Gettysburg Address)
 - c. Processes and systems
 - d. Government works and documents
2. Works that have been assigned to the public domain by their creators
3. Works that have entered the public domain because the copyright on them has expired

In general, works published after 1977 will not fall into the public domain until 70 years after the death of author, or, for corporate works, anonymous works, or works for hire, 95 years from the date of publication or 120 years from the date of creation, whichever expires first.

How does a creator dedicate a work to the public domain?

One way to dedicate a work to the public domain in the U.S. is to use the *Creative Commons* Public Domain Dedication. Note that interpretation of a dedication may vary in countries outside of the United States. Creative Commons also offers “CC0,” a method of waiving all copyrights and a number of other related rights.

Copying Limitations

Circumstances will arise when employees are uncertain whether or not copying is prohibited. In those circumstances, an Information and Technology service area staff member *should* be contacted. The following prohibitions have been expressly stated in federal guidelines:

- Reproduction of copyrighted material shall not be used to create or substitute for anthologies, compilations or collective works.
- Unless expressly permitted by agreement with the publisher and authorized by school district action, there shall be no copying from copyrighted consumable materials such as workbooks, exercises, test booklets, answer sheets and the like.
- Employees shall not:
 - Use copies to substitute for the purchase of books, periodicals, music recordings, and consumable works such as workbooks, test booklets, computer software or other copyrighted material. Copy or use the same item from term to term without the copyright owner's permission;
 - Copy or use protected material without including a notice of copyright. The following is a satisfactory notice: NOTICE: THIS MATERIAL MAY BE PROTECTED BY COPYRIGHT LAW.
 - Require other employees or students to violate the copyright law or fair use guidelines.

Recording of Copyrighted Programs

Television programs, excluding news programs, transmitted by commercial and non-commercial television stations for reception by the general public without charge may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by a school for a period not to exceed the first forty-five (45) consecutive calendar days after date of recording. Upon conclusion of this retention period, all off-air recordings must be erased or destroyed immediately. Certain programming such as that provided on public television may be exempt from this provision; check with an Information and Technology Services staff member or check the copyright guidelines of the subscription database, e.g. *DE Streaming*.

Off-air recording may be used once by individual teachers in the course of instructional activities, and repeated once only when reinforcement is necessary, within a building, during the first 10 consecutive school days, excluding scheduled interruptions, in the 45-calendar day retention period. Off-air recordings may be made only at the request of and used by individual teachers, and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers. Each additional copy shall be subject to all provisions governing the original recording.

These guidelines do not apply to cable/satellite television programming.

Music and Copyright

Musical compositions and sound recordings are often routinely eligible for copyright protection. A new composition is easily original and it is fixed when noted on paper or playing into a recording device. A sound recording of the same musical composition may have originality in the rendition, style or accompaniment. It too is fixed upon creation. The performance rights for musical works raise other copyright complications. Licensing collectives may clear permission rights. These performing rights societies include the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music International (BMI) and the Society of European Stage Authors and Composers (SESAC).

Central Rivers AEA has purchased *Soundzabound* for our employees and the school districts we serve. The music and sounds contained in this resource are copyright cleared for educational use. This resource can be accessed via the Get Media web site at: <http://www.centralriversaea.org/getmedia>
Contact an Information and Technology staff member for username and password.

The TEACH Act

The Technology, Education and Copyright Harmonization (TEACH) Act was enacted in November 2002 as an amendment to the Copyright Act of 1976. Found in section 110(2) of the Act, it covers distance education as well as face-to-face teaching which has an online, web enhanced, transmitted or broadcast component. It exempts from liability the transmission, including over a digital network, of a performance or display of a copyrighted work by an accredited non-profit educational institution to students officially enrolled in a course or a government body to officers or employees of government as a part of their official duties or employment. It does not cover making textual materials available to students. The performance or display must be:

- * Part of systematic mediated instructional activity.
- * At the direction of or under the actual supervision of the instructor.
- * An integral part of a class session.
- * All copies that are transmitted must be lawfully made copies. The performance and display may be received anywhere as long as the following technological conditions are met. The institution:

- * Must apply technological measures that reasonably prevent recipients from retaining works beyond the class session and further distributing them, and
- * May not interfere with technological protections taken by copyright owners.

The TEACH Act places considerable responsibilities on educational institutions that wish to take advantage of the exemption it offers. The greater freedoms granted to instructors are balanced with increased responsibility for the management of distance education. It does not, however, modify the previous standards for the fair use of copyrighted materials.

Permission from Copyright Owners

Copyright law grants broad rights to copyright owners and then provides fair use allowances in specific instances. In all other cases, permission must be requested from the copyright owner allowing use of the work. Contact an Information and Technology staff member for assistance with a copyright permission request.

Resources

Code of Best Practices in Fair Use of Online Video by the Center for Social Media. 2008.

http://www.centerforsocialmedia.org/resources/fair_use_and_teaching

AIME News: quarterly newsletter by the Association for Information Media and Equipment, a non-profit membership organization offering copyright information and support. This newsletter is available through the CRAEA Medianet online catalog.

The Copyright Alliance Education Foundation at <https://copyrightalliance.org/education/>

US Copyright Office at <http://www.copyright.gov/>

Creative Commons at <http://creativecommons.org/>

This document is based largely upon the Iowa Association of School Board's *Use of Information Resources Regulation* document from the IASB Sample Policy Reference Manual 2007.

This handout does not constitute legal opinion. It is intended to be a general discussion and not a definitive analysis of copyright.

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