
SECTION 4.

HYPOTHETICAL SCENARIOS

Instructions: After learning about copyright and fair use, discuss the cases below. Remember that there are no “right” or “wrong” answers. However, stronger arguments use sound reasoning connected to legal principles and established codes of practice. Use reasoning to develop and share ideas about each of these situations, reflecting on the purpose of copyright, the rights of the copyright holder, and the doctrine of fair use.

1. INSTRUCTIONAL USE

Ben Stevens uses a PBS show, *The Merchants of Cool*, in his youth media after-school program, and anticipates doing so in the future. He taped the show off air when it ran three years ago on his local PBS affiliate. His supervisor told him that he must destroy his own copy and use the copy the organization has purchased from the PBS Learner catalog. What’s fair?

Ben also teaches media literacy and multimedia production in a youth media program sponsored by a local non-profit technology center. He likes to introduce students to basic concepts in media economics by reading and discussing short articles downloaded from the online edition of the *Wall Street Journal*, to which he subscribes. He found an article on how Warner Brothers and CBS formed the television network, CW. Students enjoyed reading the article so much that Ben likes to make photocopies and use it with every group of students he teaches, even though it’s been nearly two years since the article first ran in the newspaper. Is photocopying the newspaper article fair and reasonable?

2. CURRICULUM DEVELOPMENT/MATERIALS

Ms. Mary Miller, a media literacy educator, has created lesson plans about analyzing news and journalism that are tied to specific examples from local and national television news. At a media literacy conference, she uses various short video excerpts and a longer 20-minute excerpt from *60 Minutes* and shares her curriculum materials with teachers through the use of PowerPoint slides with embedded video clips, plus a print handout.

Two weeks later, she gets an email from someone who couldn’t attend the event but would like to receive a copy of the materials. She feels comfortable sharing the print handout, but can she send the individual a copy of the PowerPoint slides and digital clips from *60 Minutes*? Can she post them to her personal website to share more generally, even with those who haven’t specifically requested them? What’s fair?

Well-known educator Mr. Smithers has received a copy of Mary Miller’s lesson plans. He incorporates them directly into his widely-adopted reader on media literacy, which is used by teachers throughout the country, without asking permission. Is that fair?

3. CURRICULUM DEVELOPMENT/MATERIALS

Mr. Joseph, a freelance media literacy entrepreneur and educator, has collected hundreds of beer and alcohol commercials and put them on a DVD. He has created lesson plans to accompany the ads, which are available as a separate document. He makes the DVD available for \$199 to schools. He is considering working with a commercial publisher of educational materials to reach a wider audience. They would sell the DVD as a stand-alone (for \$99) or with a book of lesson plans materials (for \$149.99). What’s fair?

4. STUDENT USE OF COPYRIGHTED MATERIAL: MRS. JOHNSON

In Mrs. Johnson's Grade 4 class, students create PowerPoint slides using copyrighted images they gathered through Google to illustrate their reports on countries of the world. Mrs. Johnson likes to upload their completed slides to the school's public website so that parents can see their children's creative work. Another teacher tells her that students must get permission to use images in their own work. What action is fair and reasonable?

Her principal informs Mrs. Johnson that she must take down the Grade 4 Geography slides, even though her colleague, a Grade 8 teacher, has been allowed to post the work of students who created an iMovie video about stereotypes of teenagers in the media. This work weaves together students' spoken-word poetry with various clips from TV shows and movies and images of teen celebrities found online. Does this distinction make sense or not?

5. STUDENT USE OF COPYRIGHTED MATERIAL: MR. SQUARIOUS

Mr. Squarious has his video production students create a video poem on high school cutters (self-mutilators), and in doing so, his students use samples of popular music they downloaded from iTunes to illustrate the mental state of the subjects. Is this fair? Students have contacted the record company to request permission and received no answer. Should they be able to use the music anyway? Does it matter if their request for permission actually was rejected? Is it appropriate to broadcast the video via the closed circuit TV system in the district? On local public access cable TV? And should the students be able to submit their documentary to local film festivals? They are fairly sure that they were not given permission due to the film's content. Is it fair and reasonable for them to proceed?

6. STUDENT USE OF COPYRIGHTED MATERIAL: MR. JOSEPH

In Stan Joseph's social studies class, a student wants to create a video tribute to John Lennon that focuses on his role in the anti-war movement of the 1960s. The student wants to use images from the Internet and samples of Lennon's music in her project. Is this fair? Now assume that the student has contacted the record company to request permission and received no answer. Should she be able to use the music anyway?

Next semester, this same student wants to create a music video of "Imagine" that uses images of recent news coverage of the war in Iraq intercut with video footage of Vietnam. Is this a fair use? What are the considerations would influence your decision? Another student has created a music video of "Strawberry Fields Forever" that features teens lip-synching and playing air guitar along with footage of a teen couple walking hand-in-hand in a graveyard. Is this a fair use? Why or why not?

Is it appropriate to broadcast any of these videos via the closed circuit TV system in the district? On local public access cable TV? Should students be advised to (or not to) place their work on You Tube? Should the students be able to submit their programs to a local film festival? Why or why not?