

## AGENDA

### Copyright Clarity NESA AMMAN November 2 - 3, 2018

Presenter: Renee Hobbs, University of Rhode Island USA

Email : [hobbs@uri.edu](mailto:hobbs@uri.edu)

Web: <http://mediaeducationlab.com/copyright>

**Overview.** In this Institute, you'll deepen your ability to understand how copyright and fair use applies to teaching and learning while you advance digital literacy pedagogies.

#### **Learning Objectives:**

1. Gain knowledge about how copyright law and the doctrine of fair use applies to teaching and learning in a digital world.
2. Reduce fear, uncertainty and doubt in the process of gaining confidence in applying copyright law to educational contexts and learning situations
3. Use a variety of digital learning platforms to demonstrate learning of new concepts and ideas (Google Docs, Adobe Spark, Video Ant, Flipgrid)
4. Become familiar with a variety of pedagogical strategies for introducing ideas about copyright and fair use to learners of all ages
5. Appreciate the changing social, economic and political contexts for copyright and intellectual property as they affect scholarship, teaching, learning and human creativity in general
6. Become an optimistic, positive advocate for copyright education by knowing how to offer a copyright clarity workshop to learners and colleagues in your community

#### **General Notes for this Session**

**U.S. Copyright Law.** This session focuses on U.S. copyright law as it relates to digital learning. Copyright law varies from country to country. Still, many principles presented in this workshop have wide applicability around the world. The Appendix provides a brief overview the the relevant legal statutes discussed in this program.

**Questions and Answers.** As you learn, you will naturally have questions and comments. All of your questions will be answered but perhaps not immediately. Use the [Copyright Clarity Backchannel Chat](#) to keep track of your questions that we will address in a designated Q&A session at the end of the program.

<http://backchannelchat.com/Backchannel/8r2ay>

**FRIDAY, NOVEMBER 2, 2018**

**9 - 10:30 AM**

### **1. Why Copyright Matters for Digital Learning**

More and more teachers and students now require a deeper understanding of their rights and responsibilities under copyright law because new instructional practices rely on digital and media literacy: critical analysis and creative media composition are becoming an integral part of the learning process.

Introductions:

- How are copyrighted materials used in your workplace?
- Why are you here?
- What do you hope to gain from this program?

ACTIVITY: View & Discuss. After viewing, work with a partner to identify and discuss key ideas that you learned through viewing.

- Video 1: [All Creative Work is Derivative](#). This montage of art from prehistory to the present shows how human creativity is combinatorial was created by filmmaker Nina Paley.
- Video 2: [Across 3 Continents: A Tale of Tumblr, Copyright and Excellent Posters](#). John Green discusses creativity, collaboration and copyright in relation to the work of his fans.

### **2. Hosing Out the Myths and Misinformation**

If you think you can only use 10% of a video or song or 2,000 words of a chapter, you may not fully understand copyright law. Perhaps you're confused by the various "educational use guidelines" that have been negotiated by lawyers and some educational groups. These guidelines may actually interfere with people's understanding of the law.

ACTIVITY: Lecture. PPT Slides

*Learn More*

- Video: [Introducing the Code of Best Practices for Media Literacy Education](#)
- Read: [The Cost of Copyright Confusion for Media Literacy Education](#)

### **3. Distinguishing between Plagiarism and Copyright Infringement**

If you think that you can use copyrighted materials for any purpose as long as you "cite your sources," you may be confused about the difference between attribution, plagiarism and copyright violation.

Video: [Plagiarism: The Basic Definition](#)

ACTIVITY: Create a Summary, Paraphrase, and Direct Quotation

Text: [Social or Anti-Social Media](#) by King Abdullah II ibn Al Hussein of Jordan

[Create a Google Slide](#)

*Learn More*

Video: [Credit is Due \(The Attribution Song\)](#)

Video: [Plagiarism vs Copyright](#)

Video: [Plagiarism: Cutting and Pasting from Several Sources](#)

Video: [Avoiding Plagiarism: When Should I Cite a Source?](#)

Video: [How to Cite Sources: Citing without Quoting](#)

Infographic: [Did I Plagiarize?](#)

**BREAK**

**10:45 - 12:15**

#### **4. Exploring the Purpose of Copyright**

If you think copyright law is all about owners' rights to make money, you have a distorted understanding of the purpose of copyright law. Copyright law is designed to promote creativity, innovation and the spread of knowledge. That's why it's important to understand the legal rights and responsibilities of both authors and users.

Lecture: PPT Slides

Video: Music Video: [What's Copyright?](#)

Video: [The Purpose of Copyright is to Build a Rich Public Domain](#)

*Learn More*

Video: [Hobbs & Hokanson MOOC Purpose of Copyright](#)

Video: Interview with Renee Hobbs on [Copyright Clarity: How Fair Use Supports Digital Learning](#)

Video: [Understanding Fair Use in a Digital World, Common Sense Media](#)

#### **5. How Copyright Protects both Owners and Users**

Fair use provides the necessary balance between the rights of copyright holders and the rights of users, fulfilling copyright's mission to promote knowledge, creativity and the spread of innovation. Sometimes when you want to use copyrighted materials in your own creative work, you may not be able to claim fair use. If you make a fair use determination and decide that your use of copyrighted materials may not fit under the fair use exemption, then you can ask the copyright holder's permission or use a licensing scheme. Today there are new licensing schemes that enable authors to encourage sharing of their creative work.

Lecture: PPT Slides

Video: The Global [Creative Commons Community](#)

Video: [User Rights, Section 107](#)

**LUNCH**

1:15 - 2:45 p.m.

### **6. Making a Fair Use Determination: Application and Practice**

It takes practice to exercise your fair use muscles. As you deepen your understanding of the spirit of the law, use hypothetical case studies to practice your critical thinking skills.

ACTIVITY: Case Study Discussion

*Learn More*

Video: Purdue Libraries, [Copyright and Fair Use](#)

Video: [Copyright Clarity MOOC: Fair Use](#)

Video: [How I Use Movie Clips in My YouTube with Fair Use \(Canada fair dealing\)](#)

Read: [Model School Policy on Copyright and Fair Use](#)

Read: [Critical Questions to Document Fair Use](#)

### **BREAK**

3 - 4:30 p.m.

### **Time for Questions, Sharing and Reflection**

ACTIVITY: Synthesize your learning by responding to one or more of the questions below using [Flipgrid Copyright Clarity](#).

1. How do students and teachers use copyrighted works for learning?
2. What is the purpose of copyright?
3. Why is an understanding of copyright essential for everyone today?
4. How does copyright protect both owners and users?
5. What is the doctrine of fair use?
6. What questions help people engage in the fair use reasoning process?
7. How will you be able to share your learning about copyright with others?

### **Q & A Reflection**

Open discussion time

### **OPTIONAL HOMEWORK:**

Read the [Code of Best Practices in Fair Use for Media Literacy Education](#)

## SATURDAY, NOVEMBER 4, 2018

**9 - 10:30 a.m.**

### **7. Instructional Strategies for Exploring Copyright**

Copyright education has a point of view. We first review the work of John Landis and David Cooper Moore, who write about their practice of teaching copyright in the context of elementary-level civic education. They build fair use reasoning skills without explicitly addressing U.S. law. By helping students understand the authorial and message-purpose context of online images through thoughtful and informed image searching, students develop ethical guidelines of “what’s OK” and “what’s not OK” when using the copyrighted work of others. Exploration of copyright curriculum materials reveals the values and point of view that is embedded in these materials.

*Learn More*

View: [Media Literacy Smartphone](#)

Resource: [Copyrights and Copywrongs, Common Sense Media](#)

Resource: Industry-Sponsored Curriculum: [Copyright and Creativity](#)

Resource: [Teaching Copyright, Electronic Frontier Foundation](#)

Resource: [Lesson Plans for High School and College, Media Education Lab](#)

Resource: [Video on Copyright from the Copyright Clearance Center](#)

### **8. Librarians, Copyright and Fair Use**

Most people are not aware of how copyright law is enforced. Why are there no "copyright police"? Because the copyright holder is responsible for identifying infringement, if a copyright holder wishes to pursue legal action against a user, there are many steps involved and at each stage of the process, there is an opportunity to evaluate and assess the likelihood of a legal judgment.

ACTIVITY: Stage a debate: Should school librarians and/or educational technology staff serve as “copyright police” for a school community? Why or why not?

**BREAK**

**11 - 12:30 p.m.**

### **9. Understanding and Challenging DMCA Takedowns**

When Congress enacted the Digital Millennium Copyright Act in 1998, it protected Internet Service Providers (ISPs) like YouTube and Google from copyright liability through creating a "takedown" process when copyright holders believe that users have infringed. Users who make fair use of copyrighted materials can exercise their legal rights by using a counter-notification process, requesting that their material be reinstated online.

Video: [Fair Use School](#)

Video: [Remix and Transformativeness](#)

Video: [Kirby Ferguson: Can You Circumvent DRM for Fair Use?](#)

## **10. The Future of Intellectual Property**

When exploring the topic of copyright and fair use, it's important to recognize a key principle of media literacy: all messages are constructed by people who have various purposes, goals and points of view. There are divergent views about the future of copyright in a digital age and each perspective offers some insight on the values of protecting authorship and supporting sharing as a means to build new knowledge and support innovation. The law is not fixed and static. Copyright law changes in response to changes in society and technology. The law evolves to meet these changes through both case law and legislation. That's why advocacy in support of copyright and fair use is vital to preserve the interests of educators and users.

VIDEO: [Forever Less One Day](#)

ACTIVITY: Jigsaw reading and discussion: [The Future of Intellectual Property: Three Views](#)

*Learn More*

Read: [Copyright Activism in European Union](#), Communia

Video: [Copying is not Theft](#)

Video: [Everything is a Remix: Fair Use](#)

Video: Kirby Ferguson, [Is Fair Use a Right?](#)

## **LUNCH**

**1:30 - 3 p.m.**

### **Synthesize Your Learning**

ACTIVITY: Working with a partner within a 45 minute deadline, use [Adobe Spark](#) to make a short video under 3 minutes in length. Try to capture some key insights and ideas that have special value to you. You may want to reflect on the questions from the end of the Day 1 or use remix practices to create a synthesis of the most important takeaways from what you learned.

[Adobe Spark](#)

### **Q & A Reflection**

Open discussion time

Participant [EVALUATION Survey](#)

## Takeaways

Summary of Key Ideas: [Copyright Clarity Overview](#)

## Read and Learn More

Aufderheide, P., & Jaszi, P. (2018). *Reclaiming fair use: How to put balance back in copyright*. University of Chicago Press.

Hobbs, R. (2017), Editor. *The Routledge companion on media education, copyright and fair use*. New York: Routledge.

Hobbs, R., Jaszi, P., & Aufderheide, P. (2009). [How media literacy educators reclaimed copyright and fair use](#). *International Journal of Learning and Media* 1(3), 33 - 48.

Hyde, L. (2010). *Common as air: Revolution, art and ownership*. Farrar, Straus & Giroux.

## Additional Resources

- [Celebrating Fair Use Week: An Interview with Peter Jaszi](#). Above the Law.
- Brandon Butler. (2017). Video: [Fair Use and Education: Know Your Rights](#). William Paterson University.
- [Copyright Education Resources from the Media Education Lab](#)

## **A Brief Summary of Copyright, Fair Use and Licensing Issues for Educational Uses of Film and Video**

### **THE PURPOSE OF COPYRIGHT**

According to the U.S. Constitution, the purpose of copyright law is to promote innovation and the spread of knowledge. This is accomplished through the careful balancing of the rights of owners and users. Owners may choose to control access to their works through permissions and licensing. But copyright law includes many provisions that protects users. Section 107 is the broadest of these exemptions. Users are exempt from payment and permission if their particular use of a copyrighted work qualifies as a fair use. Section 108 protects the rights of librarians to be able to copy copyrighted works as part of the services they provide. Section 110 protects the rights of educators to use copyrighted content in the classroom and for distance learning purposes.

### **SECTION 107: THE DOCTRINE OF FAIR USE**

The fair use doctrine is the part of copyright law that protects the rights of users. It has a useful flexibility that allows the law to adjust to evolving circumstances as needs and practices differ as a result of changing technologies, changing social norms and across different user communities. Rather than following a prescriptive formula, lawyers and judges decide whether a particular use of copyrighted material is “fair” according to an “equitable rule of reason.” They are required to take all the facts and circumstances into account to decide whether an unlicensed use of copyrighted material generates social or cultural benefits that are greater than the costs it imposes on the copyright owner.[1] The Supreme Court has pointed out that it is fair use that keeps copyright from violating the First Amendment; without fair use and related exceptions, copyright would create an unconstitutional constraint on free expression. Different knowledge communities (including those in academic libraries, media literacy educators and documentary filmmakers) have identified the most common ways in which the doctrine of fair use affects their work and created useful statements that help inform people of the scope and limitations of their rights under the law.

### **SECTION 108**

Section 108 of the Copyright Act lays out a series of specific protections for reproduction and distribution of copyrighted works by libraries and archives. The law strikes a balance between the needs of libraries and the market prerogatives of copyright holders, especially publishers. It allows libraries to make reproductions for library users, for preservation and replacement, and for other purposes. The law allows librarians to make copies of content that is lost damaged, stolen, deteriorating, or in an obsolete format. VHS video is a deteriorating format. But before making copies, Section 108 requires librarians to make a reasonable search to determine that an unused copy of the title is not available at a fair price. They must document evidence of their search efforts. The Due Diligence Project enables librarians to coordinate this work. When it comes to digital copies, Section 108 prohibits sharing of unpublished works to anyone outside the library or archives for any reason. Fortunately, Section 108 includes a provision stating that libraries and archives can rely upon fair use to the same extent that any other user of a copyrighted work may. While publishers want this part of the law revised, librarians and legal

experts are concerned that changes to the law might contribute to the further erosion of librarians' and users' rights.[2]

### **SECTION 110A: CLASSROOM USE OF FILM AND VIDEO**

Section 110(a) of the Copyright Act of 1976 enables the performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction. All that is required for these teaching uses is a lawfully made copy of the work. A DVD purchased at Walmart is considered a lawfully-acquired copy and so is the purchase of a DVD for \$2 at a garage sale. They may use the entire work or a short portion as educators are free to determine the appropriate use of film and video materials in class to meet the learning needs of their students.

### **SECTION 110B: COPYRIGHT MATERIALS IN DISTANCE LEARNING**

Section 110(B) also called the Technology, Education and Copyright Harmonization (TEACH) Act, was meant to address the use of copyrighted materials and the performance of audio and video works in distance learning to create equivalence between face-to-face teaching and online learning. However, this law was passed in 2002 when there was tremendous angst about online file sharing. The law is highly detailed about the conditions under which digital media can be used in distance learning. As a result, many institutions don't even try to take advantage of TEACH Act, preferring to rely on the flexibility of Section 107, the doctrine of fair use.

### **LICENSING**

Licensing processes are commercial contracts that authorize the publication, performance or display of copyrighted work. If a film screening is open to the public, a public performance license must be obtained, whether or not an admission fee is charged, whether the institution or organization is commercial or nonprofit, or whether a federal or state agency is involved. Willful infringement is a federal crime carrying a maximum sentence of up to five years in jail and/or a \$250,000 fine. Even inadvertent infringement is subject to substantial civil damages. Because licenses are contractual agreements, they supercede and replace the flexible user rights established by fair use.

### **COPYFRAUD**

Some publishers, distributors and vendors intentionally exploit the ignorance of educators and librarians by claiming the licenses are required for classroom teaching or by offering a dizzying variety of tiered pricing schemes, charging different prices to different users for the same content.[3]

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[1] Association of Research Libraries. (2012). Code of Best Practices in Fair Use for Academic and Research Libraries, (January), 29. Retrieved from <http://www.arl.org/bm~doc/code-of-best-practices-fair-use.pdf>

- [2] Butler, B., & Russell, C. (2017). Section 108 Revision: Nothing New Under the Sun. *Journal of Copyright in Education and Librarianship*, 2(1), 1–37.  
<http://doi.org/10.1148/radiol.11111690>
- [3] Butler, B. (2011). Copyfraud and Classroom Performance Rights: Two Common Bogus Copyright Claims. *Research Library Issues, RLI* 276(20).