



# Educational Copyright Issues

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**Constitutional Basis for Copyright:** The original intent was to promote the "progress of science and useful arts" by protecting, for a limited time, the exclusive rights of creators to their works.



## Reference!

Copyright protection is automatic as soon as the work is put in "fixed" media. Registration is not required for protection (but allows for statutory damages).



## Tip!

Term of copyright protection is the life of the creator, plus 70 years.



## Alert!

Copyright Penalties can have statutory damages of \$750 to \$30,000. If willful, up to \$150,000, but only \$200 if unintentional. Actual damages can be loss of revenue for copyright holder.



## Reference!

No statutory damages are allowed if the user reasonably thought the use covered by "fair use" and if employed by a nonprofit educational institution or library and if acting within the scope of employment.

## Copyright Holders Exclusive Rights

1. To reproduce work
2. To prepare derivative works
3. To distribute copies of work
4. To perform the work publicly
5. To display the work publicly

## The Copyright Notice

1. Contains the symbol © or word "Copyright" plus the year of the first publication and the name of the copyright holder
2. Removes "innocent infringement" defense if used
3. Is not required since 1989



## What is Not Protected by Copyright?

1. Titles and names
2. Short phrases
3. Lists of ingredients or contents
4. Ideas, procedures, or facts

## "Fair Use"

Specific exemption provided in the Copyright Law § 107

- Relatively short and very vague
- Even the U.S. Copyright Office's Circular 21 states that "no real definition of the concept of fair use has ever emerged"



### Alert!

Even if you unintentionally copy someone else's work, this could affect if the copyright holder receives royalties or is paid for their work. If you did not get paid for your work, would you continue creating this material?



### Tip!

Play it safe: Follow the rules and assume everything is copyrighted!



### Tip!

Plan ahead and get permission early.



### Alert!

Be aware of new technology that allows tracing the use of copyrighted material!



### Check it Out!

Stop worrying about copyright issues! For one low price for each My eCoach Guide, your school or district can receive full duplication rights: <http://www.my-ecoach.com>

## Four Factors to Determine if Copying is Allowable Under the Fair Use Exemptions

### 1 Purpose and character of the copying

- Commercial/Non-commercial
- The use is specifically mentioned in the law
- Transformative

### 2 Nature of the work being copied

- Factual or Creative
- Published or Unpublished

### 3 Amount and substantiality of the portion copied

- Portion copied in relation to work as a whole
- Small section may capture the "essence" of the work

### 4 Effect on potential market or value of original work

- Did use replace sale?
- What if use became widespread?

## Copyrighted Material is Usable When the Work is:

1. In the public domain
2. Factual or an idea
3. Used in a classroom in the course of formal instruction
4. Considered "fair use"

## What Can Be Done?

1. Establish and enforce District/School copyright policies
2. Educate teachers
3. Do role playing with students