

Copyright Primer for Administrators

Administrators live a life in a cultivated minefield. While the crops grow and the flowers bloom, there is always the danger that someone will misstep---and the resulting boom will damage the school, a student---or a career. Too often, it is the site administrator that gets to feel the concussion first. Copyright law is one more place to tread carefully. And it is an area of increasing scrutiny as intellectual property becomes the territory of ever bigger conglomerates and the revenue streams from copyrights become large enough to raise the protective hackles of the legal hounds that always hang at societies heels, for better and for worse.

Interestingly, copyright, when understood, can become a useful tool in the hands of administrators who deeply believe that school time is time for instruction and that every challenge, every break, and every pause in the day can have a part in the learning environment for young people. Most copyright abuses in education signal weakness in the instructional program. They do not signal inadequate resources. They are not the result of biased laws. In fact, copyright in the United States was given birth in the Constitution to promote education. The first intellectual property law was titled "The Education Act", and an understanding of copyright law gives a classroom teacher (particularly) and an administrator (generally) a great deal of power. The issue is how to use that power---without triggering an explosion. Understanding and judgment were never more important

Take these examples in the day in the life of a site administrator. Virtually every district has a copyright policy. But if the policy is not enforced at the site level it is meaningless and the district itself can then be liable for damages (the highest I have seen was a district six-figure settlement). What should the proper response of the site administrator be in the following scenario?

- 1 You are walking down the hall at lunchtime and see a video on in a classroom crowded with kids. From the tiny window in the classroom door, it looks a lot like the Disney movie Aladdin.
- 2 You pass the copy machine and a teacher assistant is busy running off pages from a Stephen King novel for every kid in a teacher's class.
- 3 You stop by the library but the librarian barely says hello because he is so busy copying a CD with a software program on it whose title you recognize from a purchase order you signed. The PO specified one copy. "Mrs. Murphy will kill me if she can't use this program tomorrow for Arbor Day!"
- 4 While you are in the library, a student brings up the school home page. The sounds of swing music play as the "Glenn Miller Intermediate School" logo rotates provocatively on the screen. "Pretty cool, huh?" says the student. "I built that page myself!"
- 5 After the bell rings, an excited teacher pulls you into a room to watch a multimedia presentation on civil rights and you watch as a Nina Simone song digitized from a CD plays as images you recognize from the Fox news website cross-dissolve nicely into a montage that evokes a sniff from the teacher (who went to college in the sixties). The class waits eagerly for your reaction.
- 6 Outside the room, the PTA president catches up with you to sign off on the agenda for the next meeting, which features the choral clubs rendition of "Cats".
- 7 You duck into the computer lab where the student crew is installing software. You notice there are 20 boxes of software open but 25 computers in the room. The lead student installer gets a beep, pulls out a disc, and says, "That's all of them! It's Miller time!" (Remember, this is Miller Intermediate School).
- 8 You escape from the lab into the teachers lounge where you overhear one teacher say he's forgotten his password for the Internet media library your school pays for with IMA funds. Another teacher obliges him by sharing her password---and advises her to log on at home where she has a cable modem and can download "tons of stuff"
- 9 You walk quickly from the lounge and into a classroom where a new teacher (a mandatory transfer) is looking over the computer at the teacher workstation and ogles at the great collection of software and music files the former teacher has left on the machine. You recognize none of the titles from PO's past or present. He turns to you and says, "the old guy said I could use all his old stuff---that okay with you?" The way he says it it is not really a question.

- 10 You head to the yard where you see a copy of school software sticking out of a student backpack. You ask to see it. The student shows you the keyboard skill program you remember buying. It has a little checkout pocket pasted on the box like a library book. The student notices it is the Mac version and thanks you for stopping him because “we could never install this at home---we’re all Windows!” He hands you his backpack and runs back to the school to change versions. Your heels sink a little lower into the grass as the heavy backpack weighs down your arm.
- 11 Later, you head into the media lab where a student has finally succeeded in digitizing a section of a VHS rental tape into the computer. “I told it would work on the old VCR,” says a girl in a watch cap. They high five and you hear “Miller Time” for the second time.
- 12 You pick up trash from the floor and drop it into an overflowing trashcan. You can see the tattered remains of an antique map book that the Glenn Miller estate donated to the school. Apple juice is soaking into Antarctica. You take the broken hard cover up to the library where the librarian is not perturbed in the least. She is putting together color photocopies of the destroyed pages. She chimes “I told you we needed that color copier.” Fortunately, she does not say “It’s Miller time” as she snaps together the three-ring binder.
- 13 An honor student is taping up sheets of paper in lunar blue with an image of Daffy Duck and the caption “Don’t Duck Your Responsibility! Vote! School elections Friday!” The student says “The secretary said this was okay as long as we used construction tape, right?” It doesn’t sound like a question, either.
- 14 You pop back to your office where one of your best teachers is using your scanner to digitize a map of the Nile from a recent National Geographic magazine. She says “Carlos showed me how to post this on the school website so kids could study at home with their parents!” There is a little pause that you sense you are supposed to fill with approval.
- 15 After the students have left, the industrious teachers stay to work at school. The new teachers work with a district representative who explains the new health plan. You notice your new staff members are being kept alert by a PowerPoint presentation loaded with Gary Larson cartoons and drawings you recognize from your spouse’s New Yorker magazines.
- 16 An award-winning teacher with a deep knowledge of the Civil War leaps into the air from his VCR and says “I’ve finally put together the definitive anthology of Civil War depictions in American movies! My kids will never forget it!”
- 17 The secretary, on his way out, is elated to share that Mrs. Sanchez, the beloved retired reading specialist, has agreed to watch over the siblings of school students during the upcoming Back to School Night and that the owner of the local video rental store has agreed to kick in as many videos or DVDs as she needs to “keep those rascals out of trouble.” That’s good news, right?
- 18 You are almost knocked down by a teacher racing from her room. “I thought it would take hours to put together a presentation on erosion! But Jean showed me how to use Advanced Search in Google to find PowerPoints on the web and I found a PowerPoint on erosion done by this teacher in Kentucky. It’s great, I’m downloading it, and now I can make it to my cousin’s wedding!” She asks you to turn off her computer when the download has finished.
- 19 A teacher you have taken under your wing is presenting at a district training tomorrow. She hands you a CD another teacher has burned a PowerPoint presentation in which she has inserted all the common denominator videos from the leased media library on the web. Would you please make a copy and give to the substitute tomorrow. “Just tell them to press ‘play’” And then she is gone.
- 20 After dark, you walk to your car with the librarian who stops in his tracks. “I forgot to set the VCR! There is a special on NBS tonight on Martin Luther King.” You loan her your keys to the building.

What is the proper response of the administrator?

Crucially, nearly all of these situations can be either in happy compliance with the law or in clear violation of it. The difference is determined by simple questions or observations. There may always be a grey area in copyright and education, but an informed administrator can enforce copyright compliance without sacrificing instructional integrity more times than not.

The Administrative Walk Down the Hall – A Eye On Copyright Compliance

As you walk down the hallways of your school shouldering a load of responsibility, copyright is not one more thing to worry about—it is one less thing to worry. Knowing copyright gives you another tool to support and enforce good instruction with the added ability to weed out poor practices. Let's examine our twenty cases in point. Remember that in this exercise, we are looking at a single day in the life and not at general and habitual usage. Spontaneity is a pillar of exemption.

When you see video in a classroom, if it is for instruction, it is almost entirely okay as long as it is instructionally based. (an educator may show or perform any work related to the curriculum, regardless of the medium, face-to-face in the classroom - <http://www.utsystem.edu>) It can be a Disney movie, a television broadcast, or a DVD as long as it bears on the lesson at hand. If there are hooting boys watching an action movie for the "movie club," then it is not okay. It is not your policy, or district policy— it is the law. Entertainment (or reward) requires a license (figure \$25 a pop).

The copy machine can be used for copying, and more liberally than you probably think (see guidelines). Not in lieu of purchase (which day to day is not an issue) and not for consumables. When consumables are flying off the copy machine, what does this indicate? Not enough planning at budget time (okay, that can be fixed next year) or is it that kids are being parked in front of papers instead of doing other activities? When you buy those consumables, see if the amount at the beginning of the year is realistic. If so, then maybe they are being overused. Again, prohibiting this practice is not your policy --it is the law.

Your library can make archival copies. Knowing this may really bail out a technology-dependent lesson in jeopardy because of damage, loss, or theft. Let your librarian or resource person learn the extraordinary position the law created for libraries.

The school does not have to rely on commercial music for web pages. Loop based software (like Movie Maestro) allows kids to create swing, or rap, or classic tracks. Garageband (Mac) and its ilk allow real creativity and freeplaymusic.com provides very sophisticated musical scores for a variety of classroom-based projects. Copyright forces you to encourage creativity from students---not a bad thing at all! And, remember, it's the law when material is leaving the safe harbor of the classroom.

This is another reason why to enforce the prohibition against bootleg performances of Cats, or Aladdin, or Oklahoma (we're not talking about talent shows, but about performances advertised in flyers, etc.) If performance rights are sold, buy them. Or, and here's an idea, let students and teachers create an original work (it's not your policy, it's the law!) Kids can create stories (in fact, aren't they supposed to?) and faculties (and sometimes their spouses) do have deeper music talent than most people imagine. And what an energizer an original show can be! And, if worse comes to worse, school rights to hit shows are for sale.

Students can legally use media in their projects. There are guidelines for these (halldavidson.org), and teachers should follow them, but you should not shrink if you recognize mainstream material in projects. The guidelines allow such projects to remain within a student's portfolio indefinitely.

You can save the school some software dollars if you are willing to enforce the simultaneous use rule. One kid per workstation license. This is not a problem with a site license, of course, when you can get them. Online resources requiring a license often permit teachers and students to share passwords (e.g., United Streaming). Single user licenses (like some music download subscriptions) are not so accommodating—but these are not primarily instructional services.

Software installed on older machines, presuming they are the only installation, are legitimate. But if you can't find the boxes, or a receipt, you are safer to erase them. And newer machines that have software magically appear on them really require someone to pay attention (you!). And be very careful that the school computers aren't being used for illicit music or video downloading. You'll know when the system slows down or the hard drives fill. The FBI has recently raided high schools where high volume suggested illegal activity. Students (and staff) need to download elsewhere. Creating checkout library is a good thing.

As an administrator, make a call now and then to verify that homes do erase the material after the original has been returned. A little signed contract with the parents is both educational and protective. Guidelines do allow students to use digitized media, including video, in projects. A whole movie or CD would not be permitted, but I can't think of a student project where a whole movie or CD would be instructionally important—and I have seen nearly a thousand of them over 20 years. They are not allowed to hack back encryptions, but older VCRs don't have the encryptions so hacking isn't necessary.

Libraries are able to replace lost or damaged works by copying. Archives are important under the law. Copyrighted material like Daffy Duck is very inappropriate (and improper) when used for non-instructional purposes like fliers. That applies to non-instructional PowerPoints, as well. Often abused, such use might merit a note from an administrator. The non-instructional performance (playing) of videotapes and DVDs for children at Open House falls into this same, prohibited category. When licenses are available for non-instructional use, it's better to buy them than to risk large fines when the ax finally falls.

Other the other hand, the TEACH ACT (implemented in 2002) does allow for online material to have much the same latitude as a traditional classroom, as long as it is behind a password and is managed (i.e., not kept up there for longer periods of time than instruction requires). Likewise, images, videos, and even PowerPoints from the web are permissible for instruction. Duplicating them on CDs for the staff is NOT the same as using them in a classroom for instruction. However, such material within a single classroom and not otherwise distributed is okay in the short term. If you have the rights to the material (as with Digital Curriculum), then you probably have the rights to make copies for fellow license holders.

The instance and inspiration of teacher is a powerful force under the law. Libraries and resource people in the case of television must wait until asked to record and cannot do it in anticipation of requests.