

Copyright Guidelines

Does your school or institution follow and teach the latest copyright laws?

Scenario 1: The students at Pleasant View Elementary School have demonstrated excellent behavior and hard work during the winter semester, so they are being treated to a presentation of *The Sound of Music* in the school's cafeteria.

Scenario 2: Professor Elaine Mushnik wants to show her online students video clips from selected movie adaptations that she occasionally uses in her classroom.

In particular, she wants to show scenes from the 1983 movie version of *King Lear*. Dr. Mushnik first asks the reference librarian, Amy, if there are any digital versions that can be streamed. Amy checks the U.S. Library of Congress and learns that only the VHS version exists at this time. Professor Mushnik digitizes and edits short video clips from *King Lear* and streams these to her online students, who are the only ones able to see the clips.¹

What do you think of these scenarios? Are they legal? Or are the participants breaking the law? Do you know what constitutes "fair use"? Does your school or institution follow and teach the latest copyright laws? In a moment, we will examine in closer detail the law and its implications for educators.²

But first, does the Bible have anything to say about this? We're all aware of the commandment, "Thou shalt not steal" (Exodus 20:15, KJV). To use copyrighted material inappropriately is stealing. Paul offers this counsel: "Let every soul be subject to the governing authorities. For there is no authority except from God, and the authorities that exist are appointed by God. Therefore

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whoever resists the authority resists the ordinance of God, and those who resist will bring judgment on themselves. For rulers are not a terror to good works, but to evil. Do you want to be unafraid of the authority? Do what is good, and you will have praise from the same" (Romans 13:1-3, NKJV). As Adventist educators, we have a responsibility to uphold the law (both the law of the land and the Ten Commandments) and to teach our students to do likewise. Copyright owners have specific rights to determine how their materials shall be used. To usurp an owner's right in any of these areas is stealing from him or her. When we have a correct understanding of copyright law, "fair use," and recent laws on digital works and distance learning, we can effectively model appropriate protection and use of copyrighted material and teach our students to do the same.³

Copyright Basics

Webster's dictionary defines copyright as "the right of an author or his assignee, under statute,

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to print and publish his literary or artistic work, exclusively of all other persons. This right may be had in maps, charts, engravings, plays, and musical compositions, as well as in books.”⁴ The intention of copyright law, then, is to protect intellectual property.

Copyright protects original mediums of expression such as: “poetry; prose; computer programming; artwork; musical notation; recorded music and/or song; animations; video footage; Java applets; a Web page; architectural drawings; photographs.”⁵ In addition, anything published after March 1, 1989, is automatically copyrighted when it is fixed in a tangible medium. Just because material does not include a copyright notice does not mean it is in the public domain. This is especially significant with respect to materials on the Internet.⁶ Examples of items not copyrightable include the following: “mere facts; exact duplications of public domain works; ideas; systems; works created by employees of the Federal Government; titles and short phrases; logos and slogans; forms that only collect information.”⁷

Five rights are granted to an owner of a work: “the right to repro-

To use copyrighted material inappropriately is stealing.

duce the copyrighted work; the right to prepare derivative works based upon the work; the right to distribute copies of the work to the public; the right to perform the copyrighted work publicly; and the right to display the copyrighted work publicly.”⁸ These rights are *limited*, reserved to the owner except under certain conditions of fair use.

Fair Use

The principle of “fair use” has developed over the years as courts have tried to balance the needs of society to use copyrighted material for education and journalism with the rights of the copyright owners. Fair use does not give anyone blanket permission to use material in any manner. Fair use is applicable only at non-profit educational institutions. In addition, there are four factors for determining fair use:

1. “the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;

2. “the nature of the copyrighted work;

3. “the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

4. “the effect of the use upon the potential market for or value of the copyrighted work.”⁹

In summary, educators should use as little as possible of the work and consider each factor carefully when using the material. The copyrighted material can be used in the classroom for one semester or course, but any additional use requires permission from the author. What does this mean specifically for various mediums?

Print Materials

Teachers may make one copy of the following materials (from legally acquired originals):

- “A chapter from a book.
- “An article from a periodical or newspaper.
- “A short story, short essay, or short poem, whether or not from a collective work.
- “A chart, graph, diagram, drawing cartoon or picture from a book, periodical, or newspaper.”¹⁰

Single copies of these materials may be made available in the library reserve for a class of students. These students may borrow the materials and make a single copy (however, the library should clearly post copyright notices). In this case, each student is responsible for following copyright law.¹¹

When creating multiple copies of print materials to distribute to students, the material must be necessary to meet the teacher’s instructional objectives (i.e., not for entertainment or as a diversion from study). In addition, for multiple copies, the following length guidelines apply:

- “For an article, the limit is 2,500 words.
- “For a longer work of prose, the limit is 1,000 words, or 10% of the

work, whichever is less.

- “For a poem, the limit is 250 words.
- “For a longer poem, an excerpt of no more than 250 words may be used.
- “No more than one chart, diagram, cartoon, or picture from a book, periodical, or newspaper.
- “No more than one work is copied from a single author.
- “No more than three authors are copied from a single collective work (such as an anthology).”¹²

In addition, for multiple copies:

- “The copying must be done at the initiative of the teacher (at the moment of inspiration).
- “The copying must be done at a time when it is unreasonable to get permission from the copyright owner. (If there is time, you must get permission.)
- “Only one copy is made for each student.
- “No charge is made to the stu-

dent except to recover only the cost of copying.

- “The copying is done for only one course. i.e., The same item cannot be reproduced for more than one course. (Permission must be acquired

to use the item for more than one semester or term.)

- “Nine instances of multiple copying occur during a single term or semester (with the exception of newspapers and periodicals. You may copy

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How to Find Copyright Owners

Since we've now convinced you (we hope!) that you need to obtain copyright permission to use a variety of materials and resources, how do you find out who owns a given item, anyway? The Web sites listed below will be of help:

A warning: In many cases, large conglomerates have bought up smaller companies and their copyrights, and it may be difficult to identify the current owner of a work. In spite of this, you have a legal and moral obligation to make a serious effort. Be sure to keep good records of the attempts you have made to locate the copyright owner(s). The U.S. Library of Congress, for a price, will do a copyright search to identify current holders of copyrights.

<http://www.utsystem.edu/ogc/intellectualproperty/permisn.htm>
Very thorough and helpful information on obtaining copyrights

The Copyright Clearance Center:
<http://www.copyright.com/UseAccount/Useaccount.asp?log=NO>

<http://www.virginia.edu/finance/polproc/pol/xvf7.html>
Also very thorough and helpful information on obtaining copyrights

<http://www.cetus.org/fair7.html>
Sample letter for requesting permission

<http://www.copyright.gov/circs/circ22.html>
How to investigate the copyright status of a work

<http://www.utsystem.edu/ogc/intellectualproperty/whowns.htm>
Information on who owns what

<http://www.utsystem.edu/OGC/IntellectualProperty/architec.htm>

<http://www.apra.com.au/Licence/RecIntro.htm>

<http://www.wvu.edu/depts/pubs/pdf/copyrightquestions.pdf>

<http://www.utsystem.edu/OGC/IntellectualProperty/permisn.htm>

<http://www.bitlaw.com/copyright/ownership.html>

<http://www.nolo.com/lawcenter/ency/article.cfm/objectID/BABFA71E-97C9-479F-8A9D4C3DB2498663/catID/2EB060FE-5A4B-4D81-883B0E540CC4CB1E>

<http://www.cyberspaceattorney.com/guideview.asp?layer=2&article=170>

as many times as you like; however, you must still remain within the length guidelines listed above).

- “‘Consumable works’ shall not be copied, such as workbooks and standardized tests.”¹³

Illustrations and Photographs

“Single works may be used in their entirety, but no more than five images by a single artist or photographer may be used. From a collection, not more than 15 images or 10 percent (whichever is less) may be used.”¹⁴

TV and Cable

“Broadcasts (i.e., ABC, NBC, PBS, etc.) or tapes made from broadcast may be used for instruction. Schools are allowed to retain broadcast tapes for 10 school days (some rights holders, such as PBS’s Reading Rainbow, allow for a longer period).

“Cable channel programs may be used with permission. Many programs may be retained by teachers for years. Visit Cable in the Classroom at <http://www.ciconline.org> for more details.”¹⁵

Performance and Display of Audio-Visual Material

The following guidelines apply to “performance and display” of an audio-visual work in the classroom. This includes videos, DVDs, 35 mm slides, filmstrips, etc. To show or play audio-visual material for students constitutes performance and display—which comes under a different area of copyright law than “fair use.”

- “The performance of the AV work must meet the instructional objective.”¹⁶ (i.e., you may not show a movie rented from your local video store at school as described in the scenario at the beginning of this article).

- “The AV work must be acquired legitimately.

- “It is illegal to copy an entire AV work or convert it to another format.”¹⁷

- You may copy brief portions of videos, as long as the copy does not include the creative essence of the work.¹⁸

If you would like to show movies for non-instructional use at school, a motion picture license can be purchased.¹⁹

1996 Fair Use Guidelines for Educational Multimedia²⁰

In 1996, the U.S. Congress established the Fair Use Guidelines for Educational Multimedia. These guidelines were created by representatives from a broad cross-section of education, software, and publishing associations. Following these guidelines will ensure that you stay within a safe interpretation of the law when using various materials in multimedia presentations in the classroom.

The work from which portions are used in the multimedia presentation should be lawfully acquired (i.e., you cannot use portions of music downloaded from a peer-to-peer file-sharing service, since you don’t know how the music was acquired).

The following portion limitations apply for using multimedia in projects. The portion limitations apply as a cumulative limit for the academic term or semester.

- Motion media of “up to 10% or 3 minutes, whichever is less.”

- Text of “up to 10% or 1000 words, whichever is less.”

- “An entire poem of less than 250 words may be used, but no more than three poems by one poet, or five poems by different poets from any anthology may be used.”

- For long poems, “250 words may be used but no more than three excerpts by a poet or five excerpts by different poets from a single anthology may be used.”

- Music, lyrics, and music video of “up to 10%, but in no event more than 30 seconds.”

- Illustrations and photographs: “no more than 5 images by an artist

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Copyright protects original mediums of expression such as: “poetry; prose; computer programming; artwork; musical notation; recorded music and/or song; animations; video footage; Java applets; a Web page; architectural drawings; photographs.”

or photographer. . . . Not more than 10% or 15 images from a published or collective work.”

• “Up to 10% or 2500 fields or cell entries, whichever is less, from a copyrighted database.”

Students may perform and display their projects, and keep a copy in

their portfolio.

Educators may perform and display their presentations in face-to-face instruction, for student self-study, and for remote instruction, provided that access is limited to the students only. If the network over which it is shared cannot prevent du-

plication, the work may be made available for 15 days only. Students should be advised that they may not make copies of the multimedia presentation.

Educators may perform and display the presentation at conferences and in their portfolios.

Beware of Students Sharing Music Files Via the Internet

The Recording Industry Association of America (RIAA) is targeting users of file-sharing applications in order to prevent copyrighted music from being shared illegally. Schools that provide Internet access² to students should take note. The RIAA's new “fear and awe” campaign³ is intended to frighten users of file-sharing networks into complying with copyright law. In the spring of 2003, the RIAA began by prosecuting four students for \$150,000 per copyright violation (illegal song files). The RIAA settled out of court for around \$15,000.

What Is File Sharing?

This type of software allows any two computers connected to the Internet to access and share files on each other's hard drives through a peer-to-peer network.⁴ The files most commonly shared are music and video performances, which are generally copyrighted. One of the most common programs is Kazaa; however, there are many others.

Why Is It Wrong?

There are three fundamental issues involved with copying songs from a CD (or other media) and sharing them via the Internet.

1. Legal Liability: Students are violating copyright law by owning and sharing illegally acquired copies of song files. Schools may be subpoenaed to produce the names of students participating in this activity.⁵ Parents of minors may be prosecuted as well.⁶

The RIAA recently announced a “Clean Slate Program” that grants amnesty to users who voluntarily identify themselves and promise not to share music on the Internet. The RIAA says it will not sue users who sign a Clean Slate Program affidavit and have it notarized.⁷

2. Practical Problem: File sharing utilizes network resources at astonishing rates. A few people copying and sharing songs can use all the available bandwidth, slowing down the network for legitimate Internet users.

3. Intellectual Property Theft: Many people, believing that music CDs are overpriced, do not view sharing music files as stealing. They reason that they aren't actually stealing a physical object. However, sharing music files deprives musi-

cians and songwriters of just compensation for their creative efforts. Sharing of music files constitutes theft of intellectual property and as such violates both international law and the sixth commandment.

What Should We Do?

School faculty members, administrators, and technology support staff should educate students regarding ethical behavior online. Many universities across the U.S. have begun to teach incoming freshmen about copyright issues.⁸ Every student should be required to sign an acceptable use policy (AUP) form before being allowed to use the school's Internet connection. Technology support staff should use firewalls and other means to block the use of peer-to-peer networks on campus. Staff members could look for students knowledgeable in this area and recruit them to help teach other students.⁹ As we seek to help our students apply biblical principles to all aspects of their lives, we should dialogue with them on how these principles relate to current issues.—**Lorena Bidwell**, Chief Information Officer, Information Technology Services, Andrews University, and **Janine Lim**, Instructional Technology Consultant, Berrien County ISD, Michigan.

REFERENCES

1. <http://www.riaa.com/>.
2. The school is an Internet Service Provider for its students. See <http://cobrands.public.findlaw.com/internet/nolo/ency/1902780E-68C9-436B-925AC37E42F4CD71.html>.
3. <http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/2/hi/business/3201399.stm>.
4. “What is P2P?” <http://www.openp2p.com/pub/a/p2p/2000/11/24/shirky1-whatisp2p.html>.
5. <http://www-tech.mit.edu/V123/N31/31riaa.31n.html>.
6. <http://news.bbc.co.uk/2/hi/business/3201399.stm>.
7. For information about the amnesty program, see <http://www.musicunited.org>.
8. See http://www.berkeley.edu/news/media/releases/2003/08/20_copyright.shtml.
9. See <http://www.cnn.com/2003/TECH/internet/06/27/music.sharing.column/index.htm>.

Educators may use the project for up to two years after the initial display of the project; any use thereafter requires permission from each copyrighted portion of the production.

No more than two copies may be made of the project.

Any other use or distribution requires permission from each copyrighted work used in the project.

The opening screen of the multimedia presentation should include a notice that copyrighted works have been used and that further use is restricted.

Credit should be given to each work used in the project. It may be separate from the actual piece, except for images. The copyright notice and the name of the creator of the image must be incorporated into the image in the presentation.

Internet

In addition, the Fair Use Guidelines for Educational Multimedia provide instruction on use of materials from the Internet.²¹

“Access to works on the Internet does not automatically mean that these can be reproduced and reused without permission or royalty payment and, furthermore, some copyrighted works may have been posted to the Internet without authorization of the copyright holder.”

Use of multimedia works on the Internet should follow the same guidelines as listed above (i.e., for images, etc.).

Although it is very easy for students to use the Google Image Search to find pictures for projects, pupils in grades 6 and above²² should be taught to check for copyright and permission. For example, a Google search for “trees” found a very beautiful photo taken by Philip Greenspun. The image graphic itself has a copyright notice on it. This notice might make a student think he or she cannot use the photograph. However, the page where the photo is displayed in-

cludes a copyright link to <http://philip.greenspun.com/copyright/>.

On this page, Greenspun gives explicit permission for use of his pictures in school projects. In fact, he says, regarding school projects, “feel free to print anything from my site.” In this case, the owner allows use of more than five images in one collection in a school project.

In contrast, the Internet site <http://www.webshots.com> includes, among other things, beautiful nature pictures. A link appears just below with a copyright notice. It says, “Webshots images are specially encoded to protect the copyright privileges of our professional photographers. We are unable to license Webshots images to third parties; you may not print them, use them in presentations, or use them on your Website. We have purchased the rights to use these images only within the Webshots Desktop software and on our Website. If you would like to use any of the images, you will need to contact the photographer or company listed under the image.”²³

It is important to investigate the copyright notices like these on the Internet before using materials in assignments and projects. If a site does not have a copyright notice, then you should follow the guidelines listed above.²⁴ To be safe, use sites such as <http://pics4learning.com>, which allow use in projects, and provide bibliographic information for students to include in their projects.

Software

Many people erroneously believe that the fair use guidelines apply to software as well. The Software and Information Industry Association provides the following guidelines for software use.

- “Software is automatically protected by federal copyright law from the moment of its creation. . . .
- “Those who purchase a license for a copy of software do not have the

right to make additional copies without the permission of the copyright owner, except when it is necessary to: (i) copy the software onto a single computer in order to use the software, and (ii) make a backup copy “for archival purposes only”, which are specifically provided in the Copyright Act (Section 117). . . .

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- “Some licenses allow for software to be installed at home and at school; however one should read the license agreement carefully to see if it is allowed for that particular software package. . . .

- “Public or private schools and universities are not exempt from copyright laws. On the contrary, because of their unique position of influence, schools must be committed to upholding copyright laws. Schools should make every effort to uphold the law, because it is by their example that students will learn to have respect for intellectual property.”²⁵

Distance Education: 2002 TEACH Act

In November 2002, the “Technology, Education and Copyright Harmonization Act” (known as the

TEACH Act) was signed into law by President George W. Bush. This law greatly expanded the ways that educators can legally use copyrighted materials in distance education.²⁶ Before the TEACH Act, educators were restricted from presenting audio-visual material over the World Wide Web or other digital networks. The law clarifies the responsibilities of the institution, the technology support staff, and the instructor.

Responsibilities of the Institution

Only a nonprofit organization may perform copyrighted works.

The institution must “institute policies regarding copyright.”

The institution must provide copyright information to faculty, students, and staff members.

Notice must be given to students that the materials used are copyrighted. (This could be included in the syllabus.)

The access must be restricted to the students in the course.²⁷

Responsibilities of the Information Technology Staff

Access must be restricted to the students in the course.

Storage and dissemination must be controlled, to prevent “retention of the work in accessible form by recipients of the transmission . . . for longer than the class session.”

The institution should not interfere with technological measures embedded in the content.

The temporary retention of copies is limited.²⁸

The long-term retention of copies is limited.

Responsibilities of the Instructor

Only “reasonable and limited” portions of the works may be used.

The work should be available to the students only during a brief period of the class when it meets the

specific instructional objective, not during the entire duration of the class.

A digital version of the work must be used if one is available. Remember Scenario 2 at the beginning of this article? Note how the librarian checked to see if a digital version was available. The use described in Scenario 2 is acceptable if the institution has followed the guidelines listed above. If no digital version is available,

- An analog version may be digitized (following the portion limitations listed previously) for streaming purposes.
- The digital copy may be stored on the network as long as others don’t have access to it.
- The portion of the work should be small and limited (as listed above).
- It should apply directly to the instructional purposes of the class.
- Only the copy used for digital transmission is allowed.

The instructor must oversee the planning of the educational experience.²⁹

Clearly, the TEACH Act makes distance education much easier. However, the instructor should still be aware of and follow the guidelines of fair use and be sure that any copyrighted materials used are directly related to the instructional activity and objectives.

International Law

The U.S. laws described in this article were created in compliance with the Berne Convention, which protects intellectual property worldwide. To learn more about specific laws in your country, visit <http://www.law.cornell.edu/treaties/berne/overview.html> or do a search on copyright law in your country.

Scenarios

Reading about various scenarios helps make the copyright laws easier to understand. Two Web sites in the footnotes provide quizzes and scenar-

ios to increase your understanding.³⁰ It is recommended that you review these laws and scenarios regularly with fellow colleagues to ensure that everyone understands, follows, and teaches proper use of copyrighted materials in the school setting. In this way, we can model for and teach our students to be Christian witnesses and responsible citizens. When teachers and students alike understand and follow the laws of the governing authorities in our lands, this will be an effective witness to the world around. ☞



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NOTES AND REFERENCES

1. Glen Gummess, *A Visit to Copyright Bay* (June 17, 2003): <http://www.stfrancis.edu/cid/copyrightbay/>.
2. Please note that the discussion of copyright law in this article is for the purpose of assisting Adventist educators in a non-profit setting and should not be considered legal advice.
3. See Doug Johnson’s “Resources for Teaching Information Technology Ethics to Children and Young Adults” at <http://www.doug-johnson.com/ethics/index.html>.
4. See <http://dictionary.reference.com/search?q=copyright>: *Merriam-Webster Dictionary of Law*, © 1996 Merriam-Webster, Inc.
5. Georgia Harper, “Who Owns What?” (August 27, 2000): <http://www.utsystem.edu/OGU/IntellectualProperty/whowns.htm>.
6. Janis H. Bruwelheide, “Copyright Is-

sues for the Electronic Age” (April 1995) EDO-IR-95-3: <http://ericit.org/digests/EDO-IR-1995-03.shtml>.

7. Harper.

8. Daniel A. Tysver, “Rights Granted Under Copyright Law” (2000): <http://www.bitlaw.com/copyright/scope.html>.

9. U.S. Copyright Statute (found in Title 17 of the United States Code); 17 USC 107, Limitations on Exclusive Rights: Fair Use; <http://www.bitlaw.com/source/17usc/107.html>. To read more about the fair use factors, see Gummess.

10. Gummess.

11. Compiled from *ibid.* and Hall Davidson, *Technology & Learning Copyright and Fair Use Guidelines for Teachers* (2002): http://i.cmpnet.com/techlearning/pdf/db_area/archives/TL/10/copyright_chart.pdf.

12. Gummess.

13. *Ibid.*

14. Davidson.

15. *Ibid.*

16. Gummess.

17. *Ibid.*

18. *Ibid.*

19. See http://www.ala.org/Template.cfm?Section=Library_Fact_Sheets&Template=/ContentManagement/ContentDisplay.cfm&ContentID=24635 for more details.

20. The quotations and information in this section are all taken from Fair Use Guidelines for Educational Multimedia established by Congress of the United States (1996): <http://www.libraries.psu.edu/mtss/fairuse/guidelines.html>.

21. *Ibid.*

22. *Ibid.*

23. See <http://daily.webshots.com/html/terms.html> for more information.

24. However, graphics may be covered by other laws, such as trademarks. These graphics should be avoided in projects as well (i.e., Disney graphics!).

25. SIIA, *Copyright Law & Related Issues: Software Use and the Law* (2003): <http://www.spa.org/piracy/copyright/law.asp>.

26. For more information, see <http://www.ala.org/washoff/teach.html>.

27. These lists are from <http://www.ala.org/washoff/teach.html> and Glen Gummess, *A Visit to Copyright Bay* (2003): <http://www.stfrancis.edu/cid/copyrightbay/>.

28. For more information, see <http://www.ala.org/washoff/teach.html>.

29. These lists are adapted from <http://www.ala.org/washoff/teach.html> and Gummess.

30. See <http://www.stfrancis.edu/cid/copyrightbay/cruises.htm> and http://www.techlearning.com/db_area/archives/TL/2002/10/copyright_quiz.html for the two quizzes.



AVLN

DISTANCE EDUCATION: COLLABORATING AND CONNECTING

*Sponsored by the Adventist
Virtual Learning Network*

Welcome to our new column—a space where you will find inspiration, practical ideas, resources, and people who will expand your ideas about how to “do” Adventist education. This space will serve as a forum to support those who use or wish to use technology for distance learning. It will strive to increase collaboration and connectivity among Adventist educators worldwide. The column will begin on this page but will be continued on the AVLN/JAE Web site: <http://www.avln.org>.

At the end of each column on the Web, there will be a place where you can discuss it with others. Here you will have an opportunity to share your thoughts, ideas, and concerns as well as to hear those of others. At the end of each column, there will be directions on how to participate in the online discussion. We hope to “see” you there!

This time, our column features three exemplary courses: calculus, foreign language (Spanish and French), and curriculum development. Each of them highlights valuable instructional strategies and online instructional design concepts.

If you would like to present your research and/or experiences with distance education in this column, please send an E-mail message to Shirley Freed at freed@andrews.edu or to Marilyn Eggers at marilyne@verizon.net.

Now, go to <http://avln.org> to read more!