The Educators' Guide to Copyright and Fair Use
By Hall Davidson

Back by popular demand, a new version of our practical quiz by educator and multimedia guru Hall Davidson.

This is the way it happens: You're a teacher. You find the perfect resource for a lesson you're building for your class. It's a picture from the Internet, or a piece of a song, or a page or two from a book in the library or from your own collection. There's no time to ask for permission from who owns it. There isn't even time to figure who or what exactly does own it. You use the resource anyway, and then you worry. Have you violated copyright law? What kind of example are you setting for students?

Or you're the principal. You visit a classroom and see an outstanding lesson that involves a videotape, or an MP3 audio file from the Web, or photocopies from a book you know your school doesn't own. Do you make a comment?

The Original Intent
Were the framers of the Constitution or the barons of Old English law able to look over your shoulder, they would be puzzled by your doubts because all of the above uses are legal. Intellectual property was created to promote the public good. In old England, if you wanted to copyright a book, you gave copies to the universities. According to Supreme Court Justice Sandra Day O'Connor, "The primary objective of copyright is not to reward the labor of authors...but encourage others to build freely upon the ideas and information conveyed by a work." In other words, copyright was created to benefit society at large, not to protect commercial interests.

Nowhere is this statement truer than in the educational arena. In fact, educators fall under a special category under the law known as "fair use." The concept, which first formally appeared in the 1976 Copyright Act, allows certain groups to use intellectual property deemed to benefit society as a whole, e.g., in schools for instructional use.

However, it deliberately did not spell out the details. Over the years, fair use guidelines have been created by a number of groups—usually a combination of educators, intellectual property holders, and other interested parties. These are not actual laws, but widely accepted "deals" the educational community and companies have struck and expect each other to follow.

What follows is a new version of "The Educators' Lean and Mean No FAT Guide to Fair Use," published in Technology & Learning three years ago. As you take the quiz on page 28, you will learn that no matter the technology—photocopying, downloads, file sharing, video duplication—there are times when copying is not only acceptable, it is encouraged for the purposes of teaching and learning. And you will learn that the rights are strongest and longest at the place where educators need them most: in the classroom. However, schools need to monitor and enforce fair use. If they don't, as the Los Angeles Unified School District found out in a six-figure settlement, they may find themselves on the losing end of a copyright question.

Know Your Limitations—and Rights
It has never been a more important time to know the rules. As a result of laws written and passed by Congress, companies are now creating technologies that block users from fair use of intellectual property—for example, teachers can't pull DVD files into video projects, and some computers now block users from inputting VCRs and other devices. In addition to helping schools steer clear of legal trouble, understanding the principles of fair use will allow educators to aggressively pursue new areas where technology and learning are ahead of the law, and to speak out when they feel their rights to copyright material have been violated.

Now, turn the page to find a quiz that will assess your knowledge of what is allowable—and what isn't—under fair use copyright principles and guidelines. There's also a handy chart at the end (no peeking until you take the test) that outlines teachers' fair use rights and responsibilities.

Good luck, and by the way, answers are on page 30.

Hall Davidson (hall@cccd.edu) is executive director of educational services and telecommunications at KCE:TV in California. He has received numerous awards, including an Emmy for Best Instructional Series.
## Copyright and Fair Use Guidelines for Teachers

This chart was designed to inform teachers of what they may do under the law. Feel free to make copies for teachers in your school or district, or download a PDF version at [www.techlearning.com](http://www.techlearning.com). More detailed information about fair use guidelines and copyright resources is available at [www.halldavidson.net](http://www.halldavidson.net).

<table>
<thead>
<tr>
<th>Medium</th>
<th>Specifics</th>
<th>What you can do</th>
<th>The Fine Print</th>
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<tr>
<td>Printed Material</td>
<td>• Poem less than 250 words; 250-word excerpt of poem greater than 250 words • Articles, stories, or essays less than 2,500 words • Excerpt from a longer work (10 percent of work or 1,000 words, whichever is less) • One chart, picture, diagram, or cartoon per book or per periodical issue • Two pages (maximum) from an illustrated work less than 2,500 words, e.g., a children's book</td>
<td>• Teachers may make multiple copies for classroom use, and incorporate into multimedia for teaching classes. • Students may incorporate text into multimedia projects.</td>
<td>• Copies may be made only from legally acquired originals. • Only one copy allowed per student. • Teachers may make copies in nine instances per class per term. • Usage must be &quot;at the instance and inspiration of a single teacher,&quot; i.e., not a directive from the district. • Don't create anthologies. • &quot;Consumables,&quot; such as workbooks, may not be copied.</td>
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<td>(short)</td>
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<td>Printed Material</td>
<td>• An entire work • Portions of a work • A work in which the existing format has become obsolete, e.g., a document stored on a Wang computer</td>
<td>• A librarian may make up to three copies &quot;solely for the purpose of replacement of a copy that is damaged, deteriorating, lost, or stolen.&quot;</td>
<td>• Copies must contain copyright information. • Archiving rights are designed to allow libraries to share with other libraries one-of-a-kind and out-of-print books.</td>
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<tr>
<td>Illustrations</td>
<td>• Photograph • Illustration • Collections of photographs • Collections of illustrations</td>
<td>• 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.</td>
<td>• Although older illustrations may be in the public domain and don't need permission to be used, sometimes they're part of a copyright collection. Copyright ownership information is available at <a href="http://www.loc.gov">www.loc.gov</a> or <a href="http://www.mpa.org">www.mpa.org</a>.</td>
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<td>Video (for viewing)</td>
<td>• Videotapes (purchased) • Videotapes (rented) • DVDs • Laserdiscs</td>
<td>• Teachers may use these materials in the classroom. • Copies may be made for archival purposes or to replace lost, damaged, or stolen copies.</td>
<td>• The material must be legitimately acquired. • Material must be used in a classroom or nonprofit environment &quot;dedicated to face-to-face instruction.&quot; • Use should be instructional, not for entertainment or reward. • Copying OK only if replacements are unavailable at a fair price or in a viable format.</td>
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