

Copyright and Fair Use

Copyright refers to certain legal rights to original works. While copyright law protects the rights of authors, it also provides exceptions that allow teachers and students to use copyrighted works in the teaching and learning process. Exceptions include materials in the public domain, face-to-face teaching exemption, and fair use. Fair use allows some use of copyrighted materials for certain activities including teaching and learning. Four factors must be weighed to determine if a use of copyrighted work qualifies as fair use: the purpose and character of the use, the nature of the copyrighted material, the amount used, and the effect of the use on the market for the work. Teachers and students can avoid copyright issues by asking permission for a use, using materials in the public domain or licensed through Creative Commons, and using websites that offer freely usable materials.

1. What experiences have you and your students had using copyrighted materials in the classroom?
2. What aspects of copyright law can benefit teachers and students engaged in the educational process?
3. How can you and your students acquire materials for the teaching and learning process that avoid copyright issues?



to Consider

Copyright refers to certain legal protections given to original works. Copyrighted materials are original works of authorship fixed in a tangible medium of expression such as writing, art, photography, music, video, and so on. Copyright is intended to promote innovation and progress in the arts and sciences by providing authors and inventors with rights to their creations for a time. Copyright protections last for many years but eventually expire; works enter the public domain when protections expire.

Copyright law grants copyright holders certain exclusive rights. These include the right to reproduce or copy the original work, the right to create derivative works, the right to sell or distribute the work, and the right to perform or display the work in public. However, copyright law also has special allowances or exceptions that benefit educators. One exception is materials in the public domain, which are free to use. Older materials created prior to 1925 are now in the public domain, and materials produced by the U.S. Government are also in the public domain. Copyright law also permits teachers to perform or display a legally acquired copyrighted work as part of learning activities in the classroom at a non-profit educational institution.

Fair use is another important exception for teachers and students. Fair use permits some uses of copyrighted materials without permission for things such as criticism, news reporting, research, scholarship, and teaching. Four factors are weighed on a case-by-case basis to determine whether a use is considered fair use. The four factors are: the purpose and character of the use, the nature of the original copyrighted material, the amount used in relation to the whole work, and the effect of the use on the potential market for the copyrighted work. Fair use is favored when a use is transformative, the original material is non-fiction, only small amounts are used, and the use will not adversely affect sales of the original.

Teachers and students can avoid copyright issues by asking permission for a use, using materials in the public domain or licensed through Creative Commons, and using websites that offer freely usable materials. Good websites to find freely usable images for the classroom include: photosforclass.com, pics4learning.com, openclipart.org, pixabay.com, pexels.com, and unsplash.com.

KEY Elements