

Still Confused? A Conversation about Copyright, Fair Use & Remix Culture

By Joyce Valenza and Renee Hobbs





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Goals for Today's Session

Why creative people value copyright law

How **various licensing schemes** like Creative Commons work

When you (and your students) **can** use copyrighted materials without payment or permission under some circumstances

How **codes of best practice** help people become more confident in understanding and using the doctrine of fair use

How the law adapts to changes in society and changes in technology

A close-up photograph of a computer keyboard. The focus is on a key labeled 'Share' with a right-pointing arrow below it. To the right, a portion of a 'Q' key is visible. The keys are dark with white text. An orange rectangular box is overlaid on the right side of the image.

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A Conversation

Why do creative people value copyright law?

What is the purpose of

© copyright?

We the People

Article 1

*To promote creativity,
innovation and the
spread of knowledge*

*Article 1 Section 8
U.S. Constitution*

Technology
makes it easy
to:

- ✓ Use and share
- ✓ Copy
- ✓ Modify & Repurpose
- ✓ Excerpt & Quote From
- ✓ Distribute



Owners
forcefully assert
their rights to:

- ✓ Restrict
- ✓ Limit
- ✓ Charge high fees
- ✓ Discourage use
- ✓ Use scare tactics



How Teachers Cope

See no Evil



Close the Door



Hyper-Comply

THE SECURITY OF REGULATION

1. you must answer accordingly to my questions - Don't turn them away
2. Don't try to hide the facts by making pretexts this and that
You are strictly prohibited to contest me.
3. Don't be fool for you are a chap who dare to thwart the revolution.
4. you must immediately answer my questions without wasting time to reflect.
5. Don't tell me either about your immoralities or the essence of the revolution.
6. While getting lashes or electrification you must not cry at all
7. Do nothing, sit still and wait for my orders. If there is no order, keep quiet. when I ask you to do something, you must do it right away without protesting.
8. Don't make pretext about Kampuchea Krom in order to hide your secret or traitor.
9. If you don't follow all the above rules, you shall get many lashes of electric wire.
10. If you disobey any point of my regulations you shall get either ten lashes or five shocks of electric discharge.

Problem:

Educational Use Guidelines are Confusing!

NEGOTIATED AGREEMENTS BETWEEN MEDIA COMPANIES AND EDUCATIONAL GROUPS

Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions

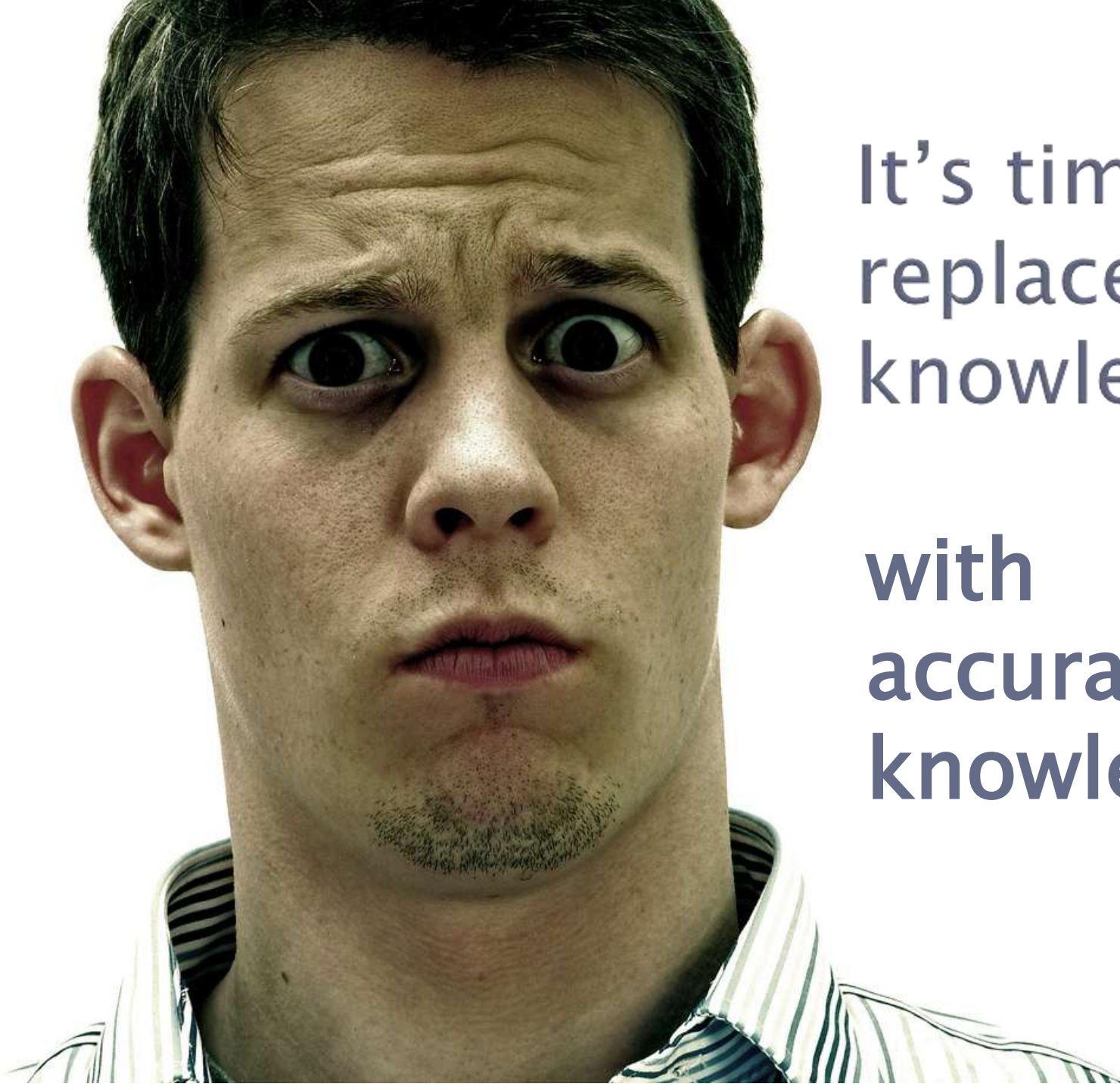
Fair Use Guidelines for Educational Multimedia

Guidelines for the Educational Use of Music

Educational Use Guidelines are NOT the Law!

The documents created by these negotiated agreements give them “the appearance of positive law. These qualities are merely illusory, and consequently the guidelines have had a seriously detrimental effect. They interfere with an actual understanding of the law and erode confidence in the law as created by Congress and the courts”

--Kenneth Crews, 2001



It's time to
replace old
knowledge

with
accurate
knowledge

LOVE



HATE

LOVE



HATE

Copyright law enables people to
control the creative works
they produce

Creative Control



The Copyright Act grants five rights to a copyright owner:

1. the right to **reproduce** the copyrighted work;
2. the right to **prepare derivative works** based upon the work;
3. the right to **distribute** copies of the work to the public;
4. the right to **perform** the copyrighted work publicly; and
5. the right to **display** the copyrighted work publicly.

LOVE

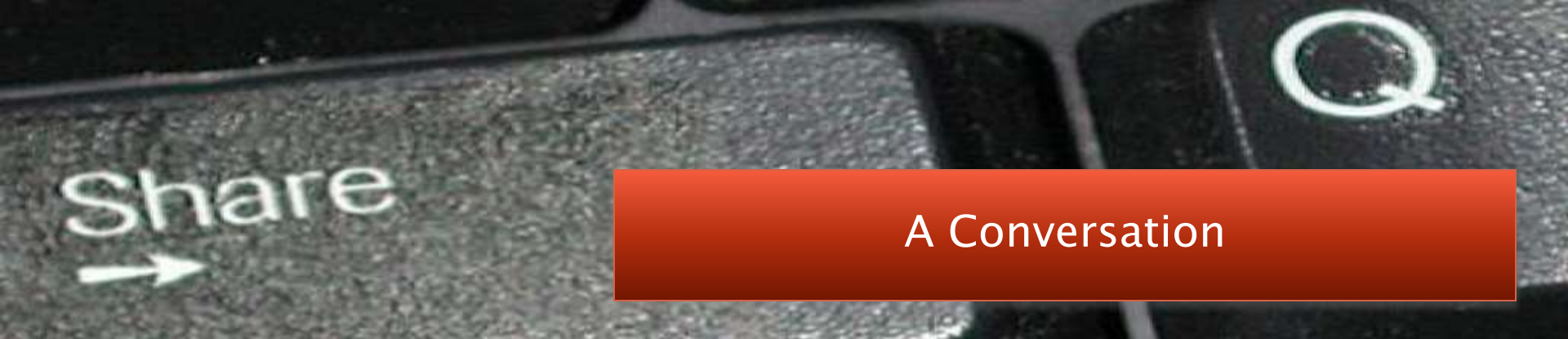


HATE

Violating Copyright Can Be Expensive

The Copyright holder may receive statutory damages for all infringements involved in the action... not less than \$750 or more than \$30,000 as the court considers just. [...]

When infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than \$150,000."



A Conversation

Why do creative people value copyright law?

How do various licensing schemes like Creative Commons work?

Owners Control Copyright through the Licensing Process



A Shared Culture

JustinG4000

1 video



Subscribe



http://www.youtube.com/watch?v=1DKm96Ftfko&feature=player_embedded

Creative Commons Symbols

In order to determine whether or not you are allowed to use a work and under what conditions, you need to become familiar with the following symbols.



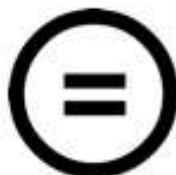
Attribution. This symbol means that you must indicate who created the work. All Creative Commons Licenses will carry this symbol. Creators will usually explain how they would like their work attributed. Some will be happy with a link back to their work. Others will want a note or caption indicating their name as creator. If you are unable to determine how the creator wishes to be attributed, it is probably a good idea to err on the side of caution and give them credit by name or by username and link back to the original.



Non-commercial. This symbol means that you may not use the work for commercial purposes. The creator of the work has given permission for you to use the work, but not if you stand to profit from the work.



Share Alike. This symbol means that you may use the work in your own work, but only if you license your derivative works under the same Creative Commons License. In other words, the creator agrees to share his or her work with you only if you share your work, too. Be careful if you use works licensed under a Share Alike license—the terms under which you share your work must be identical to the original creator's terms. That means if they allow commercial use, you must also.



No Derivative Works. This symbol means that you may use the work, but you may only use verbatim copies. In other words, you may not clip or change an image or video licensed under an ND (No Derivative Works) license. The work must be identical to its original in your own work.

Creative Commons is a nonprofit organization









Learn more — Support our work

Please note that search.creativecommons.org is **not a search engine**, but rather offers convenient access to search services provided by other independent organizations. CC has no control over the results that are returned. **Do not assume that the results displayed in this search portal are under a CC license.** You should always verify that the work is actually under a CC license by following the link. Since there is no registration to use a CC license, CC has no way to determine what has and hasn't been placed under the terms of a CC license. If you are in doubt you should contact the copyright holder directly, or try to contact the site where you found the content.

<http://search.creativecommons.org>

Media   

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-  Google
-  Yahoo
-  AddThis
-  Amazon.com
-  Answers.com
-  **Creative Commons**
-  Diigo + Google
-  eBay
-  Wikipedia (en)
-  sweetsearch.com
-  Social Mention
-  Aviary



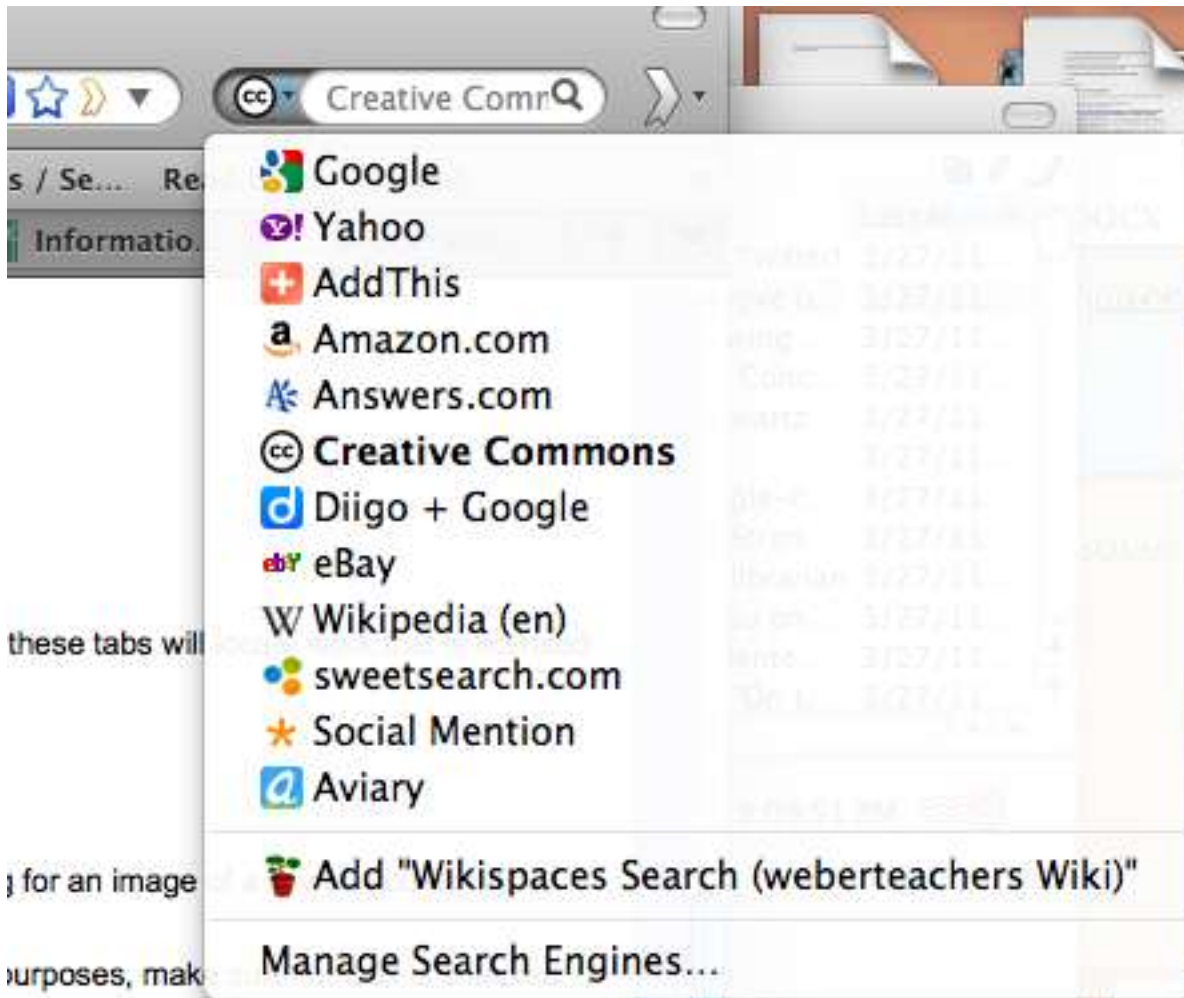
). Both of these tabs will


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nmercial purposes, mak


 Add "Wikispaces Search (weberteachers Wiki)"


Manage Search Engines...





 Google


 Yahoo


 AddThis


 Amazon.com


 Answers.com


 Creative Commons


 Diigo + Google


 eBay

 Wikipedia (en)

 sweetsearch.com

 Social Mention

 Aviary

 Add "Wikispaces Search (weberteachers Wiki)"

Manage Search Engines...



Copyright-Friendly and *Copyleft* Images and Sound (Mostly!)

for Use in Media Projects and Web Pages, Blogs, Wikis, etc.

Most of the media in these collections are attached to *generous* copyright licensing. Though you may not need to ask permission to use them when publishing on the Web for educational purposes, you should *cite* or attribute these images to their creators unless otherwise notified! If you see any copyright notices on these pages, read them for further instructions.

Note: always check individual licensing notices before publishing on the Web or broadcasting!

And for guidance in using *copyrighted* materials, consult the [Code of Best Practices in Fair Use for Media Literacy Education](#).

To explore new trends copyright licensing, view these presentations and resources:

- [Lawrence Lessig Free Culture](#)
- [Creative Commons: Get Creative](#)
- [Sharing Creative Works](#) (presentation for teachers and students)
- [Creative Commons Licenses](#)
- [Creative Commons Zero](#)
- [Drape's Takes Educator's Guide to Creative Commons](#)
- [Smart Copying The Official Guide to Copyright Issues for Australian Schools and TAFE](#) (using Creative Commons in schools)
- [30Plus Places to Find Creative Commons Media](#)

Portals

- [Flickr's Creative Commons Pool](#): Browse through the images provided by Flickr users who have chosen to offer their pictures under a Creative Commons license. A [Flickr Advanced Search](#) also allows you to search for these images easily.
- [Flickr Storm](#) (select appropriate Creative Commons license from pull-down menu)
- [FlickrCC Blue Mountains](#) Displays attribution
- [Compfight: A Flickr Search Tool](#)
- [Flickr Free Use Photos](#) Photo sharing, no attribution necessary
- [Beholdcc](#) Use the boxes before you search to select licensing
- [Shahi Visual Dictionary](#) (check for licensing, many are CC and [Wiktionary](#))
- [openphoto](#): Free stock images. Use categories on the right to browse or click on *search* in the top bar
- [BurningWell](#) (public domain, high resolution photos)
- [Compfight.com](#)
- [Creativity103.com](#) (abstract backgrounds)
- [Photos8](#) (public domain photos)

<http://copyrightfriendly.wikispaces.com/>

Actions

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Navigation

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FLICKR CREATIVE COMMONS PORTAL



FLICKR STORM



FLICKR BLUE MOUNTAINS



COMP FIGHT



BEHOLDCC



CC SEARCH



FLICKR: THE COMMONS



YAHOO! CREATIVE COMMONS SEARCH



WIKIMEDIA COMMONS



JAMENDO (MUSIC)



CREATIVE COMMONS AUDIO



PODSAFE AUDIO (MUSIC)



OPSOUND (MUSIC)



CCMIXTER (MUSIC)



U.S. GOVERNMENT PHOTOS AND IMAGE

<http://only2clicks.com/pages/joycevalenza/343504>

Creative Commons

Many Flickr users have chosen to offer their work under a Creative Commons license, and you can browse or search through content under each type of license.

Here are some recently added bits and pieces:

Attribution License



From [urbano fotoqrafo](#)



From [cmonville](#)



From [urbano fotoqrafo](#)



From [jimf0390](#)



From [Cushing Memorial...](#)

» 16,443,367 photos ([See more](#))

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From [NancyCoop](#)



From [NancyCoop](#)



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» 5,615,433 photos ([See more](#))

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From [Phil Beard](#)



From [Mossolen](#)



From [Phil Beard](#)



From [*Mr.Jeff*](#)



From [Mossolen](#)



"Creative Commons is a non-profit that offers an alternative to full copyright."

creativecommons.org

Briefly...

Attribution means:

You let others copy, distribute, display, and perform your copyrighted work - and derivative works based upon it - but only if they give you credit.



Noncommercial means:

You let others copy, distribute, display, and perform your work - and derivative works based upon it - but for noncommercial purposes only.



No Derivative Works means:

You let others copy, distribute, display, and perform only verbatim copies of your work, not derivative works based upon it.



Share Alike means:

You allow others to distribute derivative works only under a license identical to the license that governs



<http://www.flickr.com/creativecommons/>



click on a thumbnail for details (be patient, it may take a few seconds to load)

SEARCH FOR CC IMAGES ON FLICKR

 FOR EDITING COMMERCIAL

Attribution:

Image: 'Laxmi street'

<http://www.flickr.com/photos/62223880@N00/295142265>

Edit image: [in house](#) or using [Picnik](#)



[Square](#) - [Thumbnail](#) - [Medium](#) - [Large](#) - [Original](#)

<http://flickrcc.bluemountains.net>

NOTICE: We're in the middle of a major upgrade, please accept our apologies if you experience any technical issues.

Millions of images available. What do you need a picture of today?

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Search

Creative Commons: **Only** + Seek Original: **On** + Safe Search: **On**



To find content for commercial use select **Commercial**.

To find only Creative Commons images select **Only**.

To find every available image, including Creative Commons select **Off**.





<http://compfight.com/>

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With a Creative Commons license, **you keep your copyright** but allow people to *copy and distribute your work* provided they *give you credit* — and only on the conditions you specify here. For those new to Creative Commons licensing, we've prepared [a list of things to think about](#). If you want to offer your work with no conditions attached, or you want to mark a work that is already free of known copyright restrictions and in the public domain, choose one of our [public domain tools](#).


When you choose a [license](#), we provide you with HTML you can use to add the license information to your site and information on how to select a license on one of several free hosting services that have incorporated Creative Commons. This is not a registration and we do not retain a record of your selection.


Allow commercial uses of your work?

- Yes 
- No 

Allow modifications of your work?

- Yes 
- Yes, as long as others share alike 
- No 

Jurisdiction of your license 

International 

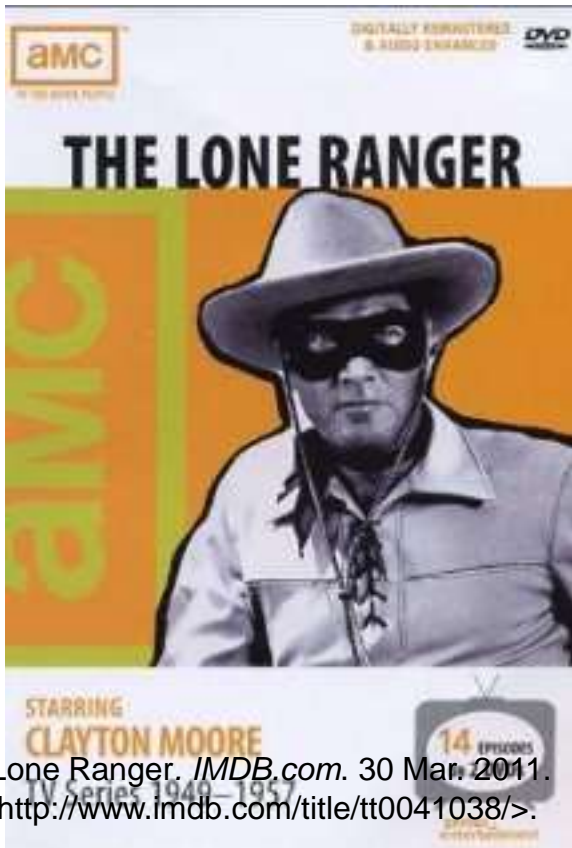
Additional Information

<http://creativecommons.org/choose/>

The additional fields are optional, but will be embedded in the HTML generated for your license. This allows users of your work to determine how to attribute it or where to go for more information about



Oliver, Tony. "Sioux Woman and her Child." 1 Jun. 2007. *Flickr*. 30 Mar. 2010. <<http://www.flickr.com/photos/48806909@N00/525348256>>.



"Lone Ranger. *IMDB.com*. 30 Mar. 2011.
<<http://www.imdb.com/title/tt0041038/>>.



"Pocahontas." n.d. *Disney.com*. 30 Mar. 2011.
<<http://disney.go.com/princess/index.html#/pocahontas/>>



"Indians from Peter Pan." 21 Jan. 2008. *Nine Most Racist Disney Cartoons*.
30 Mar. 2011. <http://www.cracked.com/article_15833_the-9-most-racist-disney-characters.html>.



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A Conversation

Why do creative people value copyright law?

How do various licensing schemes like Creative Commons work?

When can you use copyrighted materials without payment or permission?



**EVERYTHING
IS COPYRIGHTED**



**EVERYTHING
IS COPYRIGHTED
...BUT THERE ARE
EXEMPTIONS**

The Doctrine of Fair Use

§107 · Limitations on exclusive rights: Fair use⁴⁰

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including in copies or phonorecords, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research, is not an infringement of copyright. In determining

For purposes such as
criticism, comment,
news reporting, teaching (including
multiple copies for classroom use),
scholarship or research

--Section 107
Copyright Act of 1976

The Doctrine of Fair Use

“It not only allows but **encourages socially beneficial uses of copyrighted works** such as teaching, learning, and scholarship. Without fair use, those beneficial uses— quoting from copyrighted works, providing multiple copies to students in class, creating new knowledge based on previously published knowledge—would be infringements. Fair use is the means for assuring a robust and vigorous exchange of copyrighted information.”

--Carrie Russell, American Library Association

Copyright Law Balances Rights of Owners and Users



OWNERS

USERS

Copyright Law Balances Rights of Owners and Users



OWNERS

USERS

Judges are more likely to rule that a particular use of copyrighted materials is a fair use when the **social benefits** of the unauthorized use outweigh the private costs to the copyright holder

Bill Graham Archives vs. Dorling Kindersley, Ltd. (2006)



An Example of Transformative Use



The purpose of the original:
To generate publicity for a concert.



The purpose of the new work: To document and illustrate the concert events in historical context.



Fair Use Music Video:

http://www.youtube.com/watch?v=o1XaCBf8PJ8&feature=player_embedded#at=14

PAY A LICENSE FEE
Ask Permission

CLAIM FAIR USE
Just Use it

SELECT PUBLIC DOMAIN,
ROYALTY-FREE or
CREATIVE COMMONS
LICENSED CONTENT

DON'T USE IT

USING COPYRIGHTED MATERIAL
CHOICES FOR THE CREATIVE INDIVIDUAL

Using Copyrighted Materials in Creative Work



CASE 1. Someone uses an image of John Lennon in a class assignment when discussing how musicians share their political beliefs with their fans.

CASE 2. Someone uses an image of John Lennon on the cover of the high school literary magazine.

Sharing Creative Work Online



CASE 1. Someone uses “Little Mermaid” image in a personal blog writing about childhood memories.

CASE 2. Someone uses a “Little Mermaid” image in online fan fiction about the sexual adventures of Ariel.



Exercising Your
Fair Use
Reasoning
Involves
Critical Thinking



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A Conversation

Why do creative people value copyright law?

How do various licensing schemes like Creative Commons work?

When can you use copyrighted materials without payment or permission?

How do codes of best practice build people's confidence in applying fair use to their practice?

Code of
**Best Practices in
Fair Use for
Media Literacy
Education**

Reflects the “best practices” of educators who use copyrighted material to build critical thinking and communication skills



centerforsocialmedia.org/medialiteracy

Supported by a grant from the John D. and Catherine T MacArthur Foundation

Five Principles

Code of Best Practices in Fair Use

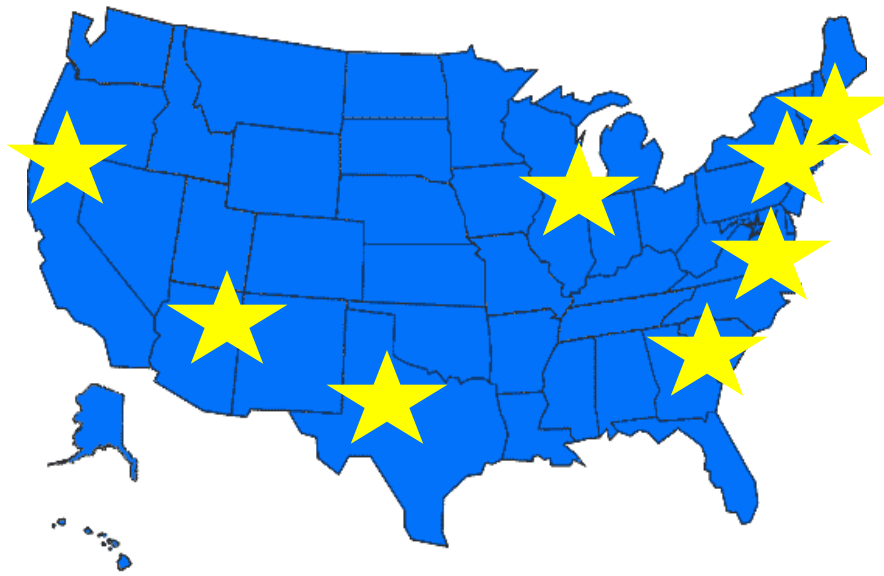
Educators can:

1. make copies of newspaper articles, TV shows, and other copyrighted works and use them and keep them for educational use
2. create curriculum materials and scholarship with copyrighted materials embedded
3. share, sell and distribute curriculum materials with copyrighted materials embedded

Learners can:

4. use copyrighted works in creating new material
5. distribute their works digitally if they meet the transformativeness standard

Organizations Supporting the Code of Best Practices



Association of College and Research Libraries (ACRL)

National Association for Media Literacy Education (NAMLE)

Action Coalition for Media Education (ACME)

Visual Studies Division
International Communication Association (ICA)

National Council of Teachers
Of English (NCTE)

Educators Can Rely on Fair Use



National Council of Teachers of English (NCTE) has adopted the “Code of Best Practices in Fair Use for Media Literacy Education” as its official policy on fair use



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A Conversation

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When can you use copyrighted materials without payment or permission?

How do codes of best practice build people's confidence in applying fair use to their practice?

How does copyright law adapt to changes in technology and changes in society?

Remix Culture is our Culture



http://www.youtube.com/watch?v=j3jovQ4eKqE&feature=player_detailpage#t=46s

Copyright Law Adapts to Changes in Technology and Society





Digital Millennium Copyright Act of 1998

1.RIPPING. Criminalizes the use of technology, devices, or services intended to circumvent digital rights management (DRM) software that controls access to copyrighted works.

2.ONLINE TAKEDOWNS. Protects Internet Service Providers against copyright liability if they promptly block access to allegedly infringing material (or remove such material from their systems) if notified by copyright holder; offers a counter-notification provision if use is exempted under fair use

The Digital Millennium Copyright Act



http://www.youtube.com/watch?v=whOvCQmjIWI&feature=player_embedded

Renee Goes to the Copyright Office

Annotations Editor



0:05 / 4:47

The Results of our Advocacy

Users may unlock DVDs protected by the Content Scrambling System when circumvention is for the purpose of criticism or comment using short sections, for educational, documentary or non-profit use.





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When you (and your students) **can** use copyrighted materials without payment or permission under some circumstances

How **codes of best practice** help people become more confident in understanding and using the doctrine of fair use

How the law adapts to changes in society and changes in technology



SHARE THE GOOD NEWS!





*Check out the new [Tool for Supporting the Fair Use Reasoning process](#). We'd love to hear how you are using it.

★ Scenarios

page ▾

discussion

history

notify me

IS THIS A FAIR USE OF COPYRIGHTED MATERIALS? WHY OR WHY NOT?

[Edit This Page](#)

Use the [Fair Use Reasoning form](#) to analyze whether or not the case below can be reasoned as a fair use.

Scenario Cards to Print: [scenario-cards-to-print.doc](#)

1. For a media production course, students have created a music video using the Beatles' song "Strawberry Fields Forever" that features teens lip-syncing and playing air guitar along with footage of a teen couple walking hand-in-hand in a graveyard. They post the video to YouTube.

[SCENARIO 1](#)

2. A teacher uses a copyrighted image, found on Flickr, adds the title of the school play, and uses it on a T-shirt to promote the school's upcoming dramatic production.

[SCENARIO 2](#)

3. An educator uses a still image from the TV show Aliens in America in a slide presentation for a conference. His purpose is to illustrate a point about Pakistani immigration policy in the United States. He posts the slides online.

[SCENARIO 3](#)

4. A group of students create a documentary about John Lennon's role as an anti-war activist, weaving old news clips from footage about the Vietnam War and clips from various Lennon songs to show how his lyrics reflected his beliefs about the war.

[SCENARIO 4](#)

5. An educator embeds a political cartoon in one of her blog posts, commenting on the cartoon's relevance to the troublesome school leadership in her district.

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HOME
[READ THE CODE](#)
(pdf)

- Teaching Fair Use
- Reasoning Fair Use
- Best Practices
- Scenarios (*NEW)
- Q & A
- Videos

Actions

STHS LIBRARY GUIDES



Library » LibGuides » Research Tools

[Admin Sign In](#)

Research Tools

Tools, tutorials, and all sorts of resources to help you successfully navigate the research process!

Last update: Mar 22nd, 2011

URL: <http://sdst.libguides.com/researchtools>

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Documenting the Fair Use Reasoning Process



[Document the fair use reasoning process.pdf](#)

Al A. E. H. E. E. E. E. E.

Copyright-Friendly/Creative Commons Licensed Media



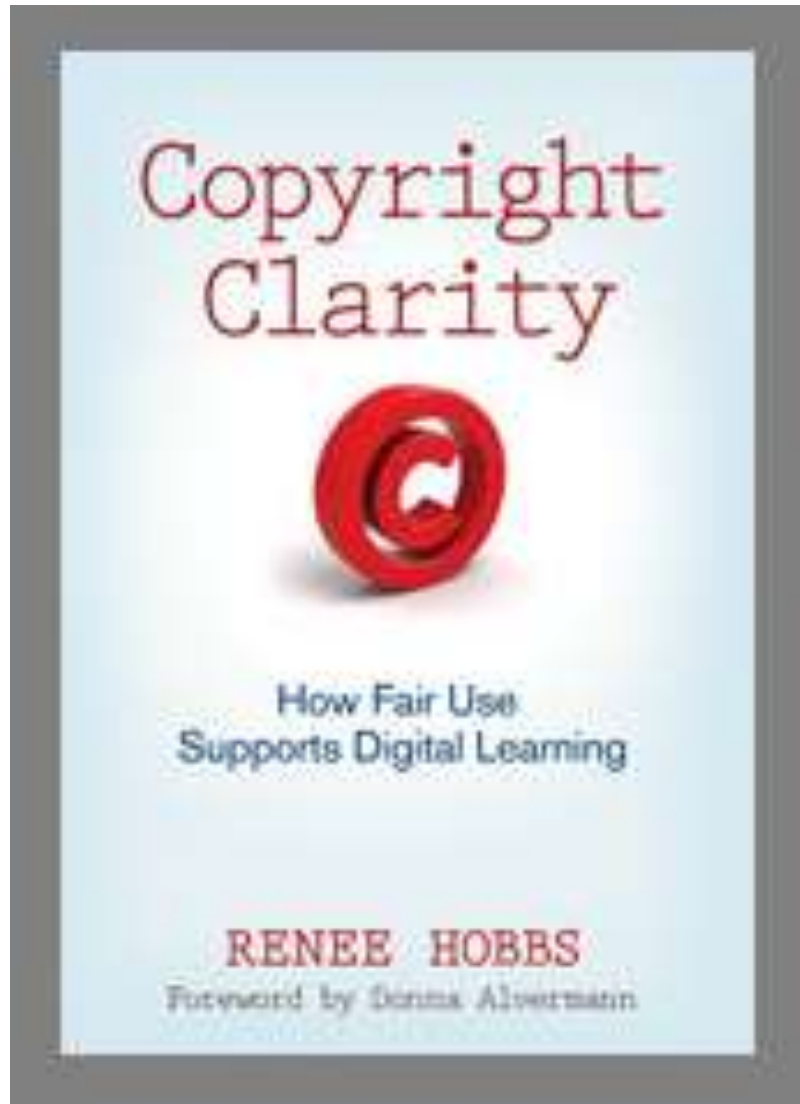
Creative Commons

[Creative Commons Licenses](#)

[License Chooser](#)

[Instructional Videos](#)

<http://mediaeducationlab.com/copyright>





Joyce Kasman Valenza

Springfield Township High School

Email: joyce_valenza@sdst.org

Web:

<http://springfieldlibrary.wikispaces.com/>

<http://blog.schoollibraryjournal.com/neverendingsearch/>

Twitter: @joycevalenza

<http://mediaeducationlab.com/copyright>



**Renee Hobbs
Temple University
Media Education Lab
School of Communications and Theater
Philadelphia PA**

**Email: renee.hobbs@temple.edu
Phone: (215) 204-3255
Twitter: reneehobbs**