



Answers: Fair Use Copyright Quiz

by Hall Davidson

1. **False.** The purpose of copyright was to support the “advancement of Science and the useful arts”. “Science” at the time was synonymous with “knowledge.”
2. **False.** “Entertainment” and “reward” are explicitly excluded under copyright guidelines.
3. (a) **True.** The district is liable. The district must enforce its written policy, not just post it. Somebody needs to be monitoring the network and the stand alone computers, too. Unenforced policy cost one large district over a six figure settlement, despite posted policy. (b) **False.** The Adobe license specifically forbids this. They would like licenses for each working machine. (c) This remains to be seen. Some legal opinions are skeptical that an *inappropriate* license will hold up simply because of a “click to accept” agreement.
4. **False.** The time has long passed when she should have asked permission or purchased the tape. One legal opinion has held that using only the segment with the wave would be more acceptable for retention.
5. **True.** The principle should hold, but school may check the license to be sure (see number (3)).
6. **False.** All that fine print you click “accept” with the mouse to ignore actually means something. However, it must concur with prevailing law.
7. **True.** The video is a legal copy being used for instructional purposes.
8. (a) **True** As long as the project is not publicly distributed, the student may archive his/her work. (b) **False.** The whole notion of fair use permits the absence of permission.
9. **True.** The distributor permits this because the state of California licenses (for a fee) this instructional series for all public schools. Licenses can be made for many nonrestrictive purposes that would otherwise be prohibited.
10. **True.** Although netiquette would dictate asking permission, the trainer should be okay in an educational context. Once released to the public, the copyright holder has less reason to complain about public use. Open internet postings are public postings. (An internet posting is intended to be copied because the only way anyone can see a page is for their computer to copy it into RAM.)
11. **True.** *Reading Rainbow* allows educational retention for one year after original broadcast. The educators are within the legal guidelines for now, but after the year is up they must erase or purchase. Digitizing is fine if the tape is legal.
12. **False.** Internet pages are copyrighted automatically. The student cannot safely post (and therefore re-copyright) anything without permission. Use in a classroom report or multimedia project would have been okay, as would a non-posted page.
13. **True.** The school LAN (local area network) is presumably not accessible to the outside and the length and use of the clip support the notion that this is fine.



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14. **True.** The checkout is fine. The school must make serious efforts to make sure parents aren't keeping the program illegally on their home computer, however.
15. **True.** The California Student Media Festival is expressly designed to reward classroom work. It is not a contest. See www.mediafestival.org for more information.
16. **True.** Fair use is generally extended to include educator trainings and conferences.
17. **False.** The television station is wrong. First, it doesn't hold the copyright on Seinfeld. Second, Congress holds that *any* program publicly broadcast may be used within ten school days. Some rights are extended much longer for schools by copyright holders.
18. **(a) False.** For Fair Use, the material to be used (in this case the copy on cassette) must be legally obtained. The student was using an unauthorized copy. Francis Scott Key may be dead, but the orchestra that created the arrangement and created the tape is probably still around. **(b) No - Before July, 2000.** This is an illegal copy (see (a) above). **Yes - after July 2000,** because MP3.com reached an agreement with most music copyright holders. (Napster is still a "no" for most uses). **(c) Yes.** Journalism is another area justifying fair use and in this case the illegal nature of the copy was critical to the journalistic proof of her point. See www.benedict.com for further examples.
19. **False.** It is not instructional use. Maybe some school will make a test case of this and win. But this really is not for the benefit of learning.
20. **True.** The Player is intended for public distribution and the program itself is never in simultaneous use.
21. **False.** Something similar has happened with print material. If there the program was never offered for sale, then there is little grounds to support financial loss. But the teacher does have the right to make them stop using his work.
22. **False.** The copyright holder sells the performance rights to schools in a very specific way. If you want *CATS*, buy the performance rights. Sell tickets if you have to to pay for the rights. That's the way the system is supposed to work.
23. **True.** This is probably okay unless it is expressly prohibited. Most systems that don't allow multiple simultaneous use are set up to prevent it, making this a moot point.
24. **False.** Schools may not tape in anticipation of requests. They can act only on actual requests.
25. **False.** The copyright holder lost in a just such a case. The UC schools are state schools and the court ruled the state could not be sued unless it consented. The ethical issue was unaddressed by the court. Different cases have produced different results, but this case demonstrates the uncertainty inherent in copyright.

★ Bonus Question ★

- Q.** Copyright protection is essential for superior artistic output.
- A.** **You decide.** "No man but a blockhead ever wrote, except for money" wrote Samuel Johnson*. On the other hand, *Hamlet* (in fact, all of Elizabethan theatre), *The Odyssey*, *Don Quixote*, classical art, *Oedipus Rex*, *The Messiah*, *The Brandenburg Concertos*, in addition to religious works such as the Koran, the Bible, the Vedas, Greek Mythology, and many more works were written without copyright protection as we know it today.

There are divergent points of view on copyright under the law. Two points of view can be found in two excellent books, available on Amazon.com. *The Illustrated Story of Copyright* (Samuels), and *The Nature of Copyright: A Law of Users' Rights* (Patterson, Lindberg)

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