

CCUMC Fair use Guidelines for Educational Multimedia

The following is a DRAFT of the CCUMC Fair Use Guidelines. Guidelines are NOT LAW and as a DRAFT these guidelines are still being refined.

Panelists included:

Ivan R. Bender, copyright attorney in private practice in Chicago
Frank W. Connolly, Professor of Computer Science and Information Systems at The American University in Washington, DC
Mary Levering, Associate Register for National Copyright Programs, U.S. Copyright Office
Lisa Livingston Chair, Government Regulations and Public Policy Committee of Consortium of College and University Media Centers
Arnie Lutzker, Attorney, Fish and Richardson in Washington DC
Gregg Mathis, Director of Educational Technology at Carnegie Mellon University
Carol Risher, Vice President for Copyright and New Technology for the Association of American Publishers
Judith Saffer, Assistant General Counsel for the Broadcast Music Industry
Bernard R. Sorkin, senior counsel for Time Warner, Inc
Joann Stevens Vice President for Communications for the Association of American Colleges and Universities

A VHS video copy of the conference is available for \$225.00 by sending your payment or PO along with your Name, Institution, Address, City, State, Zip, and phone to:

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DRAFT**DRAFT CCUMC September 13, 1995 DRAFT****DRAFT**

To all members of the Consortium of College and University Media Centers (CCUMC) Fair Access Working Committee:
Initially, this committee's members focused on examples of educational uses that appeared to fit within fair use. Now we are at the point of actually developing guidelines. The following guidelines have migrated from the earlier examples of educational multimedia fair use and are subject to further discussion at our next meeting on October 24, 1995.

DRAFT FAIR USE GUIDELINES FOR EDUCATIONAL MULTIMEDIA DRAFT

1) STUDENT USE:

Students may use portions of lawfully acquired copyrighted works in their academic multimedia programs, with proper attribution and citations. They may perform and display their program for educational purposes and may retain it in their personal portfolios as examples of their academic work for later appropriate uses such as job and graduate school applications.

2) INSTRUCTION IN MULTIMEDIA DEVELOPMENT:

Educators may use portions of lawfully acquired copyrighted works in the course of face-to-face teaching activities to demonstrate to students how to create multimedia programs.

3) FACE-TO-FACE CURRICULUM-BASED INSTRUCTION:

Educators may use portions of lawfully acquired copyrighted works in producing and using their own multimedia programs for their own teaching tools in support of an identified curriculum.

4) PEER CONFERENCES:

Educators may perform or display their own multimedia programs created for their own curriculum-based instructional activities, which use portions of copyrighted works lawfully acquired by the educational institution, at workshops of their peers or a conference where educators are presenting works they created for their students.

5) REMOTE INSTRUCTION:

Educators may use portions of lawfully acquired copyrighted works in producing their own multimedia educational programs to be used for curriculum-based instructional activities provided over an educational institution's electronic network, provided there are technological limitations on access to the network programs (such as a password or PIN) and on the total number of students enrolled.

6) TIME LIMITATIONS:

Educators may use their own multimedia programs, containing portions of copyrighted works incorporated under fair use and developed for educational purposes, in teaching courses for a period of up to two years after completion of the finished multimedia product but use beyond that time period requires permission for each copyrighted portion incorporated in the production.

7) PORTION LIMITATION:

Where portion restrictions appear elsewhere in the guidelines, the following limitations apply.

7A MOTION MEDIA

Up to 10% or 3 minutes, which ever is less, in the aggregate of a copyrighted motion

media work may be reproduced or otherwise incorporated as part of a multimedia program produced by an educator or student for educational purposes.

7B TEXT MATERIAL

Up to 10% or 1,000 words, whichever is less, in the aggregate of a copyrighted work consisting of text material may be reproduced or otherwise incorporated as part of a multimedia program produced by an educator or student for educational purposes. In the case of a poem of less than 250 words, the entire poem may be used but no more than one poem by a poet or 5 poems from any anthology may be used. For poems of greater length, 250 words may be used but no more than one poem by any poet or 5 poems from any anthology may be used.

7C MUSIC

Up to 10% of an individual copyrighted musical composition, or up to 10% of a copyrighted musical composition embodied on a sound recording may be reproduced or otherwise incorporated as part of a multimedia program produced by an educator or student for educational purposes.

Notwithstanding the above, using more than 30 seconds of an individual copyrighted musical composition, or of an individual musical composition as embodied on a sound recording shall require permissions from the copyright owner or licensing collective.

7D ILLUSTRATIONS AND PHOTOGRAPHS

The reproduction or incorporation of photographs and illustrations is more difficult to define with regard to fair use because fair use usually precludes the use of entire works. Under these guidelines a photograph or illustration may be used in its entirety but no more than 5 images of an artist or photographer may be incorporated into any one multimedia program. When using photographs and illustrations from a published collective work, not more than 10% or 15 images, whichever is less, may be used in the multimedia program produced by an educator or student for educational purposes.

7E COMPUTER SOFTWARE

Yet to be discussed.

EXAMPLES OF WHEN PERMISSION IS REQUIRED

1) Educators and students must seek individual permissions (licenses) before using copyrighted works in educational multimedia productions for commercial reproduction and distribution.

2) Even for educational purposes, educators and students must seek individual permissions for all copyrighted works incorporated in their personally created multimedia programs before replicating beyond one copy, distributing copies of the project or any portions thereof to others, or when producing such multimedia

programs in collaboration with other educators for use beyond one educational institution.

3) Educators and students may not use their personally created educational multimedia programs over electronic networks to which access is uncontrolled without obtaining permissions for all copyrighted works incorporated in the program.

IMPORTANT REMINDERS

1) Educators and students are advised to exercise caution in using digital material downloaded from the Internet in producing their own educational multimedia programs, because there is a mix of works protected by copyright and works in the public domain on the network. 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.

2) Educators and students are reminded that proper attribution and credit with citations to sources must be noted for all copyrighted works included in all multimedia programs prepared by educators and students, including those prepared under fair use.

3) Educators and students are advised that they must include on the opening screen of their multimedia program and any accompanying print material a notice that certain materials are included under fair use exemption of the U.S. Copyright Law and have been prepared with the multimedia fair use guidelines and are restricted from further use.

4) Educators and students are advised to note that if there is a possibility that their own educational multimedia program incorporating copyrighted works under fair use could later result in either a widely disseminated or a commercial product, it is strongly recommended that they take steps to obtain permissions during the development process for all copyrighted portions rather than waiting until after completion of the program.

5) Copyright holders and other creators have serious concerns about the integrity of their original works. Therefore educators and students are advised to exercise caution when making any alterations in a work, and must explicitly describe the nature of any changes they make to original creations when producing their own multimedia program, in order to respect the integrity of the original work.