Infringement or Fair Use? – Teacher Answers

Youtube
SCENARIO 1: You hear a song on the radio that you really like. You take the time to learn it, video record it and post it up on Youtube.

FAIR USE? No. You need to get permission from the artist in order to post up the song otherwise Youtube may pull your video off their site.

PROBING QUESTIONS: What if you wrote the song, video recorded it and posted it up on Youtube? Does that change whether or not posting the video is considered fair use? Yes this changes things. If you wrote the song, you own the copyright and can do with it what you would like.

SCENARIO 2: You are recording some of your friends at a party and one of them makes a really funny face that has all of your friends laughing hysterically. Your friend gives you consent to post the video of him. There was also a One Direction song playing on the stereo at the party and you can hear it playing in the background of the video clip.

FAIR USE? Yes. As long as the one direction song is not the feature of the video and is not played for a long period of time.

PROBING QUESTIONS: What if your friend said that he didn’t want the video posted online? Is posting the video still considered fair use? No. This is no longer considered fair use. The copyright issue is with your friends consent. He made it clear that he did not want the video posted and could contact Youtube to have it taken off of the site. This is not fair use.

Newspaper Article for Classroom Use
SCENARIO 3: A teacher copies a paragraph from an article and hands it out to the class to read and to discuss the point of view of the author.

FAIR USE? Yes. Distribution of multiple copies for instructional classroom use is fair use.

Video Recordings
Showing a Videotape for Classroom Instruction
SCENARIO 4: A teacher wishes to show a copyrighted motion picture to her class for instructional purposes.

FAIR USE? Yes, since it is for classroom instruction and no admission fee is charged.

PROBING QUESTIONS: What if the teacher charged a small fee for watching the movie and wanted to use the money to purchase the school a new iPad? Is this still fair use? No, this is no longer fair use. The teacher is making money from watching the movie and this infringes upon the copyright owners rights.

Renting a Videotape That Is in the Public Domain for Nonclassroom Use
SCENARIO 5: The Principal wishes to raise funds for a new SMARTboard. She plans a school movie night, rents the Blue-ray Disc of a movie with an expired copyright and charges five dollars to watch the movie.

FAIR USE? Yes. The copyright of the motion picture has expired, which places the motion picture in the public domain.

PROBING QUESTIONS: What if the Principal borrows a pirated copy of the Hunger Games which is copyrighted and still in theatres? Is this still considered fair use? No. The fact that it is pirated means that it is illegal to own in the first place. The fact that the school would be making money from the viewing infringes upon the owners copyright. Also, this infringes upon the copyright owner’s right to market the work. Why pay 13 dollars to go see the movie in theatres when we can see it for five at the school?
Multimedia Projects
Classroom Presentation
SCENARIO 6: A teacher or student prepares and gives a presentation that displays pictures. Permission was not obtained to use the photographs.
FAIR USE? Yes. The fair use laws say that it is fine to use copyrighted material briefly for classroom instructional purposes. Instructors and students may perform and display their own educational projects or presentations for instruction.

Use of Copyrighted Music
SCENARIO 7: A teacher or student creates a presentation and incorporates copyrighted music into the background. Assume that permission was not obtained to use the music for the presentation. Can the music be included in the teacher's or student's initial presentation?
FAIR USE? Yes. This is fair use if instruction is occurring.