

FAIR USE OF MATERIAL

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A Copyright gives authors of original works, such as books, songs or movies, the sole right to copy their own work and prevents others from copying their material without permission. ¹ U.S. Copyright law allows for an author to register his or her work and strictly prohibits the reproduction or copying of such registered material. ² Most notably, this includes written works such as books, magazines, brochures and pamphlets, as well as audio-visual materials such as pictures, videos, recordings or films. ³ These protections apply regardless of what form the original publication is and what form the reproduction takes. ⁴

However, under the “fair use” exception, limited reproduction is allowed for certain purposes and is not considered a copyright infringement. ⁵ These purposes are generally as follows and are accompanied by examples: ⁶

Criticism or comment

- An excerpt from an article or editorial appearing in a paper or magazine, like an endorsement of a candidate or a criticism of trade policy, may be reproduced and posted to a local website for the purpose of criticizing or commenting on it.

News reporting

- An increasing number of websites, especially weblogs, are featuring informative pieces that report alleged facts or events. For example, say a union learns information on proposed legislation from a news service like the Associated Press, Reuters, CNN, etc. The union may report the information directly from the news service provided that credit is given (“from the Associated Press...” or “Fox News reports...”).

Education

- Excerpts of copies of written work, like articles or brochures, as well as video streams of segments of speeches and addresses, may appear on a website provided their purpose is to educate the audience. This is the most gray area of copyright law and precautions should be taken, such as grouping these materials in a clearly marked area of the web page that is used for educating or training members and clearly attributing the authorship of the materials. For example, say the Right to Work Committee writes and registers a pamphlet on how to prevent unionization in the workplace and your local wants to educate its members via its website on what tactics the members might expect and how best to prevent them. Relevant excerpts from the pamphlet may be recopied and posted to the website provided that the purpose of educating the local is clearly marked and the issuer of the pamphlet, the RTW committee, is marked.

Scholarship or Research

- Compiling previously researched and published material is generally acceptable, but must always be done with an eye towards productive informational purposes. For example, your union website may choose to compile and publish excerpts of several separate university and non-governmental agency studies on the economic impact of the FTAA. This is permissible, so long as it is done for scholarly or informative purposes to highlight the information or to encourage further research, but not for entertainment or union self-aggrandizement.

Prior to reproducing *any* material to accomplish the above purposes, website administrators should ask themselves if the reproduced material in question will be used consistent with the following guidelines for fair use:

Use is for non-profit educational purposes and is not of a commercial nature. 7

- For example, reproduced material compiled for training purposes may not be sold.

The nature of the copy-righted work is more informational than creative. 8

- Use of reproduced informational material, like voter turnout statistics researched and published by the local university, will be viewed more favorably by courts than the reproduction of a short story or an editorial cartoon.

Use is limited to a portion of the original and the original is not reproduced in its entirety. 9

- Only excerpts of material may be reproduced. A piece may never be recopied in its entirety.

Use of the reproduction does not impact the potential market for the original. 10

- If a website reports news from a news service, that website should not do so to the point of siphoning off patrons of the original news service. For example, your website occasionally posts news stories found on CNN. Your website may not post so many stories from CNN that news viewers would have the opportunity to cease using CNN in favor of your website.

Remember, when citing or reproducing part of an original work, common sense should prevail; cite the name of the author and any relevant information as to where the original is available. No citation is necessary when creating a link to another website or news story. Additionally, not only are citations important for legal purposes, but they also lend credibility to your argument. For example, imagine this guidance you just read did not cite the legal source it quoted from. The reader would not be able to consult the actual sources used, and further, the reader may even question the validity of the guidance.

Which, while we are at it, this guidance shall make an express reservation: this guidance may be used for training or informative purposes only and not for any commercial purposes whatsoever. This guidance reflects current understanding of copyright law and should be used only as a guideline and not an actual source of the law. If any questions arise, please consult your Staff Representative.

Footnotes

1. BLACK'S LAW DICTIONARY 337 (7th ed. 1999).
2. 17 U.S.C. § 102(a) (2003).
3. 17 U.S.C. § 102(a).
4. 17 U.S.C. § 102(a).
5. 17 U.S.C. § 107 (2003).
6. 17 U.S.C. § 107
7. 17 U.S.C. § 107(1).
8. 17 U.S.C. § 107(2).
9. 17 U.S.C. § 107(3).
10. 17 U.S.C. § 107(4).