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# Reading Allowed:

Fair Use Enables Translating  
Classroom Practices to Online Learning

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# Who we are



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# Agenda

1. Title, Bios, and Introduction
2. Why even think about copyright
3. Why reading aloud matters
4. Why it particularly matters now
5. Reading aloud and copyright (and why publisher permission doesn't matter)
6. Fair Use analysis and how it works for reading aloud
7. Technologies, formats etc.
8. Scenarios
9. Continuing Emergency - UDL



# Why we're here

Why are educators even thinking about copyright?

- Bad legal advice online
- Need for legal explanation

Copyright has space for the difference between commercial audiobooks and reading aloud for teaching purposes.



# Examining the Purposes of Reading Aloud

"The single most important activity for building the knowledge required for eventual success in reading is reading aloud to children.... (Reading aloud) is a practice that should continue throughout the grades."

US Dept. of Education



# Beyond education

- Creates a new shared experience - we speak books together
- Continues community and shared value of reading
- Tool for reframing the impact of the dominant culture and how it influences our understanding of the world



# Educational purposes of reading aloud

- Models reading skills for students
- Accessible text for all in an inequitable time
- Equalizes the experience between different abled readers
- Shared jumping off point for further individual inquiry
- Allows teachers to provide inflection and emphasize context clues
- Opportunities for teachers to create pauses for inquiry, explanation, and exploration of moments in the text



# Transitioning to online

- We already do this...
- It starts with the why
  - Emergency like now
  - Blended learning
  - Online learning/schools
- But, it's not about the tools





# Serving every learner



Kristina

# Copyright Law and the Purposes of Reading Aloud



# Copyright loves education -- and reading aloud

- Copyright's mission: access to knowledge and the Copyright Clause
- For most of its history, copyright did not even apply to face-to-face teaching
- When that changed in 1978, a generous carve-out was provided
- But no one then imagined online education
- In 2002, Congress tried to update the law, with mixed and often confusing results, in the TEACH Act.
- However, one thing was made clear: the flexible, general fair use doctrine supplements and complements the rigid and specific provisions of Sec.110.
- As it turns out, important developments in fair use case law in the last 25 years have been enormously favorable for educators

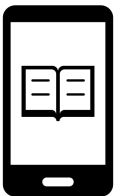


# Fair use basics

- If there was ever a risk in relying on fair use, it is now more predictable than ever, thanks to the Congress and the courts.
- Four factor statutory test developed from common law = why, what, how much, and what economic effect?
- Condensed into a few core questions:
  - 1) are you doing something new or different (something “transformative”) with the material? And,
  - 2) are you providing a substitute for the work as originally offered?

Also, it sometime can be important to ask whether the amount you’re using is appropriate -- though when reading aloud, that will often be the whole book!

Peter



# Permission is great - but it's different from fair use!

- Good faith reliance on fair use by educators is safer than ever in this emergency.
- Many publishers are opening up access to their books for a limited time or in limited ways - including “allowing” reading aloud.
- That’s awesome! Check out this School Library Journal blog for some details: <https://tinyurl.com/SLJ-list>.
- BUT, none of these temporary “licenses” limit the scope or your ability to rely on fair use to read aloud online -- either now or later.
- That’s because fair use is a statutory right, not a concession by rightholders.

Peter



# Applying fair use to reading aloud

1. What are the transformative purposes for which teachers and students are reading this material to each other in the example you're looking at?  
  
and
2. When they read, does it undercut the core market for the original book (or other resource)?



# Reading aloud, transformativeness, and the market

- When teachers and students read aloud in the classroom, it's a rich interactive experience that serves a variety of different functions.
- It's not the same experience as silent reading, or listening passively to a professional reading.
- Because the experiences are so different, one isn't a substitute for the other.
- Students who hear books in the classroom won't buy fewer volumes or e-books.
- Nor is there any reason to think reading aloud in and around classes will compete with audiobooks or other commercially produced readings.



# Storytime and transformativeness

- Rich experience when a parent can read individually to a child, but this doesn't always occur, storytime fills a gap so all can build a love of reading
- Library storytime provides an early community experience, is often interactive, allows children to play roles in the story
- Experienced storytellers tie images to words, building blocks for early media literacy
- Librarians select and purchase children's books that are the best for their communities, those that reflect diversity and life circumstances
- Parents discover which books to buy for home because a book in the library is a quality book, leading to discovery and purchases





# Putting Theory into Practice: Considerations for Educators



# Fair use covers a range of materials

- Both fiction and nonfiction texts (narrative and expository)
- Purchased copy, a library book, online, or elsewhere
- Integrated texts and illustrations (ranging from picture book art to graphs and tables in STEM materials)
- Teachers or students
- Be extra careful with textbooks and commercial learning materials



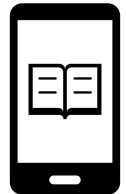
# Fair use covers a range of platforms

- Where possible, avoid undifferentiated general-use platforms
- The “safest” choice may be a Learning Management System with technological features that limit access to enrolled students, BUT this is not a necessity
- Other options: school-based or teacher-maintained website, dedicated channels on YouTube or a similar platform
- No obligation to monitor



# Fair use covers a wide range of readers

- Teachers
- Students
- Librarians
- Guest speakers
- And . . .



# Examining Specific Practices



# Educational practices enabled by fair use

A teacher reads an introductory segment of a nonfiction text aloud to provide students with background material, and offers pre-recorded segments for students to choose to listen to next so that students can select their own learning paths.



# Educational practices enabled by fair use

A teacher who regularly begins a class session with a chapter from a novel, to orient students in the physical classroom and to get them focused for learning, adapts that practice for virtual learning:

- Translating this practice to online learning by posting one chapter per day on a learning management system as an introductory exercise; and
- Streaming this on a commercial platform, such as Facebook or Instagram, to prompt students to get online and start focusing on classroom work.



# Educational practices enabled by fair use

In an online recording posted to an LMS, a teacher reads a few introductory paragraphs from a commercial textbook and goes on to highlight (and display on video) segments of the reading (that students are going to do independently). The teacher goes on to read the textbook's first discussion question and to provide additional context and directions for the students' work.





# Educational practices enabled by fair use

A teacher reads and shows two picture books to a class as part of a longer 30-minute lesson including discussion questions and context:

- The teacher is doing this for English language learners, interspersing reading from the book with scaffolding questions in students' home language; and
- The more the readings are contextualized, the less concern there need be about the platform on which they are offered



# Educational practices enabled by fair use

Teachers and students collaborate to read texts in parallel, contributing to a distributed reading project that documents both shared experiences and diverse voices.

- Recordings of classmates reading aloud document students' voices and experiences
- Reading projects coordinated between schools and geographic locations create connections and learning opportunities for students to experience



# Practices not clearly enabled

A teacher establishes a free personal YouTube channel on which they read and comment on a wide range of picture books and early chapter books; although it is made available to the teacher's classes, it also is promoted as a resource for other instructors across the country, and hosts ads for educational products and services.



# Practices not clearly enabled

A school system that is economizing on purchases of educational materials suggests that teachers consider reading review questions from commercial worksheets aloud rather than acquiring copies to distribute for student use.



# Going Forward



# Reading aloud online is not just for emergencies

It will continue to be part of efforts to extend the physical classroom, using a “universal design” strategy to:

- Enrich the experience of every learner;
- Support vulnerable learners wherever they are;
- Build equity of opportunity in education.
- Foster a widespread love of reading



# Questions and Discussion



I would love a clear yes/no answer to whether or not it is fair use to read a book aloud and post on a closed platform (such as Google Classroom or Schoology), and delete at the end of the year - regardless of publisher. The information that has come out so far is VERY confusing and complicated when each publisher has different rules.





Would reading several chapters of chapter book qualify as fair use?



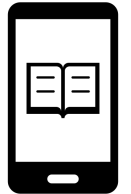
If someone records a Zoom discussion, and copyrighted material is discussed in full (say, a poem) is that permitted?



Do you need to wait for an approval response from a publisher before having your reading?



Is there a special way we should give credit to author or publishers when we read a book online?



What about recording a read-aloud session and emailing it to the individual students in a class?



Does it matter what source material I'm using for a read-aloud: personal copy, library copy, e-book, etc.?



Our concept was to have poets read their own poems or a poem of their choosing which would focus on fostering connection amidst the loneliness and social distancing of Covid-19. The audience would largely be adult/young adult patients. Our platform would be Facebook – we have a fairly small following since we are so specialized – and we don't have another platform that we would be able to use in a more restricted way. What about one poet reading another's work?



Do you predict that current copyright concerns over sharing books online will shift due to COVID-19 circumstances? In other words, since we must share online in order to do our jobs, which benefits society, will interpretation of fair use broaden?





# Thank You

<https://tinyurl.com/read-aloud-online>

For links to slides, bios, webcast, and  
form to submit more questions

