

FOCUS

ON JERICHO TEACHERS AND THEIR ISSUES

September 2008

President's Message for September

By Maryann Risi

Welcome back to another exciting year in Jericho. This year, more than ever, we will need your Vote-Cope donations. With failing banks, a poor economy, and foreclosed houses, finances are at the forefront of most conversations and school taxes are getting the most attention. In Albany, our legislators are considering putting a "4% tax cap" on the amount of money a district can raise. This will

affect every one of us in big and little ways: some departments face layoffs; others will have budget cuts; class sizes will increase; and field trips may be a thing of the past. In the near future, the JTA Executive Board will send you information on NYSUT's stand on this proposed law. Please read it carefully and let your legislators know where you stand.

On another legislative note...three Westchester state legislators want to enact another cap. This one

on classroom temperatures during the hottest weather! Right now, state education law only requires that schools be no colder than 65 degrees with no maximum. State Senator Andrea Stewart-Cousins, Assemblymen Mike Spano and J Gary Pretlow want to change that. Their proposal is for a 95 degree cap on classroom temperatures. I know that last spring and earlier this year our elementary classrooms were very close to that limit! We'll keep you informed.

Jericho Teachers Association Delegate Assembly

The Delegate Assembly is made up of the Executive Board and representatives from each of the five buildings.

Executive Board

President - Maryann Risi
Elementary VP - Lois Burn
Middle School VP - Ted Lucher
High School VP - Kevin Brodsky
Treasurer - Fran Rivera
Secretary - Mike Pekor

Building Delegates (AKA Building Reps.)

Cantiague

Kathy DeFina
Joan Gulamerian
Alexandra White

Jackson

Martha Bertolini
Tina Belotti
Mady Bernard
Catherine Rosh (Alt.)

Seaman

Jackie O'Neill
Lynne Mattern
Mona Iraggi
Susan Stanco (Alt.)

Middle School

Theresa Cantwell
Carol Dell'Erba
Diane Gilbert
Peter Horvath
Ron Verderber

High School

Walter Kirby
Debbie Lesse
Louise Millmann
Denise Ryder
Jim Shotter

Coaches Association

Will Martinez

Jericho Retirees Association

Mary LaRocca

The Delegate Assembly meets monthly to discuss issues and concerns. In addition to monthly meetings, the reps meet with their building administration to discuss concerns and to work together toward common goals. Executive Board members and building reps also attend district Board of Education meetings.

Jericho Teachers Association

President - Maryann Risi

Middle School VP - Ted Lucher

High School VP - Kevin Brodsky

Elementary VP - Lois Burn

Treasurer - Fran Rivera

Secretary - Mike Pekor

Benefits Trust - Suzanne Jacobsen

VOTE/COPE - Chuck Koppeis

Focus / Web - Denise Ryder

JTA Office Secretary
Maria Migliaccio x3443

www.jerichoteachers.org

FOCUS

is the monthly newsletter of the Jericho Teachers Association.

We welcome input, articles, viewpoints, and questions from all members. If there is an issue

you would like to see

addressed or if you would like to

contribute please e-mail

Denise Ryder, at

ryder@jerichoteachers.org



Homecoming September 26-27

By Denise Ryder

Following closely on the heels of all of our “Back to School” nights is Homecoming. Teachers from all five buildings march as a group in the parade behind our Jericho Teachers Association banner which is traditionally carried by our newest members. This year’s theme is Super heroes, which I am sure will make for some fancy floats.

The parade will be starting in the high school faculty parking lot (left side of the building toward the back), then will go to the front of the building, across the front, around to the right side, past transportation to the rear of the middle school faculty parking lot. Although I have always enjoyed waving and smiling sweetly at angry motorists as we block traffic on 106/107, I don’t mind a shorter, less intru-



sive parade route. Too bad we didn’t do this in 2000 when I was five months pregnant and jogged the whole way taking pictures!

I would like to take this opportunity to encourage the entire faculty to participate. Homecoming is not just a “high school” event - it is one of the rare opportunities for all teachers from all buildings to get together and have some fun! If you have kids, BRING THEM! If you don’t have kids, BORROW SOME! The carnival is really fun - rides, games, cotton candy - the works! Many of our student clubs and organizations will be fundraising so please come and support them.

The carnival will be open on Friday night (4-7) and Saturday after the parade until 6. Pay-one-price bracelets will be available for \$25. The football game is on Saturday and starts at 1:00. We are playing Valley Stream Central.

And one more thing, it *does* count as a “night back.”

District Wide Meetings

October 29 & May 6

End of Year Celebration

June 11

Ignorantia Iuris Neminem Excusat*

by Denise Ryder

Our new Memorandum of Agreement (MOA), which was just recently signed by both sides, was scrutinized because of the vagueness of the language describing the teachers’ responsibility for posting homework assignments to the Web. There is a BIG difference between the word *homework* and the words *homework assignment*. A homework assignment could be, for example, to read certain pages in the text book, to read the next chapter in a novel, or to complete a worksheet that was handed out in class. This is how our negotiating team purposely defined homework assignments. The District wanted more. We sent it to the lawyers who ultimately advised us that it was in our best interest to let the District clarify homework. The MOA now reads:

“The District will provide and the teachers will use technology that allows homework material (examples: worksheets, articles, reference materials), other than text book materials, to be copied, e-mailed, and attached to the District server.”

My purpose is not to criticize or comment. It’s been signed. Suffice it to say, everybody is pretty ticked off. And that’s all I’m going to say on the matter (at least for now).

In light of this change in the wording, specifically the words *homework material*, it is critically important that we discuss copyright infringement. Most of us probably violate the copyright laws several times per week without being aware of it, and certainly without meaning to do it. Now is a *really* good time to talk about it.

A working definition of copyright

Copyright provides the owner/creator of a creative work the sole right to control how it is used. This includes reproducing it, publishing it, selling, or otherwise distributing it. So...unless you have the permission of the copyright owner, your everyday use of materials could constitute copyright infringement.

But aren’t there “special rules” for teachers? The answer is yes, there are.

Enter the fair use doctrine

The fair use doctrine provides a limited basis by which people can use a copyrighted work without getting permission. The *essence* of fair use is that it’s OK as long as you are not using the work in such a manner that diverts,

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or has the potential of, diverting income from the creator. And by creator, I don't mean God.

Many teachers interpret *fair use* as freedom to use copyrighted materials as long as their use is restricted to instructional purposes. That's not true. Fair use actually depends on the individual circumstances of each use.

The four factors

There are four factors that are used to determine fair use. The following is from Section 107 of the Copyright Act:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes.
2. the nature of the copyrighted work.
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole.
4. the effect of the use upon the potential market for or value of the copyrighted work.

These four factors are the framework for determining copyright violations. All four factors must be taken into consideration when making determinations. For example, factor 1 might seem like *carte blanche* for teachers – it's not like you're going to make money from the copies. However, making multiple copies certainly would affect the moneymaking potential of the author/creator. In this instance, factor 4 trumps factor 1.

Factor 2 concerns the nature of the work. Is the work factual or creative? For example, simple outline diagrams and maps are not eligible for copyright (the shape of a state is the shape of a state) so you can copy them all you want. Creative works are more highly protected. This is why "transformative" uses are favored. Examples would be quoting in a term paper, using pieces of a work mixed into something you've created, or including a commentary or criticism of the original.

Factor 3 is difficult too. How much of a work is "substantial?" Copying ten pages of a children's picture book is not the same as copying ten pages of War and Peace.

To me, factor 4 is the only one that is straight forward. When you think about the materials you use as someone's livelihood, you can pretty much tell when you're preventing them from making money.

Special rules for teachers?

For teaching purposes, multiple copies of complete works can be allowed. Of course there are guidelines for this too: brevity, spontaneity, and cumulative effect.

Brevity It depends in the material. I am including a chart (that I have permission to distribute) that will help with specifics for both print and non-print)

Spontaneity Multiple copies of a complete work can be created and used "at the instance and inspiration of an individual teacher." Let's say you find the perfect poem to illustrate something you are teaching. You don't have time to ask for permission. Go ahead and make your copies - no one is trying to wreck your "teachable" moment. You may not however, use the same thing the next year without permission. According to everything that I have read, a reasonable amount of time to request permission and get an answer back is about three weeks.

Here's something interesting – notice it says "at the instance and inspiration of an *individual teacher*." The law expressly prohibits the copying of materials "directed by higher authority" (again, not God). What this means is that a supervisor (read curriculum associate, principal, superintendent) can not tell a teacher to copy and distribute items, *like an article from a periodical*, without violating the letter of the law.

Cumulative Effect Cumulative effect is a biggie. The law protects authors and publishers by preserving the market for materials. Copying can not substitute for the purchase of books or periodicals. This includes copying from "consumables" (workbooks, test booklets, etc.) and making anthologies. Another word for anthology could be coursepack, depending what you put in it.

Right about now I'm thinking, "oh my God, we're all felons!" (and by God, this time I mean God).

But I always copy workbook pages!

Well stop! Prohibitions on multiple copying state "there shall be no copying of materials intended to be consumable." If you buy one copy of a workbook and photocopy the pages instead of buying a class set you have prevented that author from making money. This happens in classrooms all the time. Schools will claim the "no profit" defense, but it's still wrong. Understand there is a difference between a consumable workbook and a book with "ready-to-use" activities - you aren't supposed to get one for each student.

What about that coursepack I hand out each year?

You may have to revise it. You should certainly scrutinize it - item by item. Use the chart. Depending what you have included, you may have multiple issues to deal with. Since you are handing it out at the beginning of the year, you can't claim spontaneity. Is there a poem in it? If it is less than 250 words and is printed out on not more than two pages, you're OK. If

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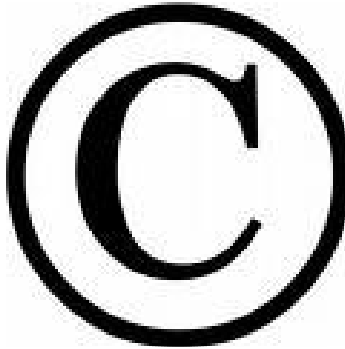
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it's more than 250 words, only the first 250 words can be copied. If that's in the middle of a line, you can finish the line. Prose? There's a percentage.

What about fair use of audiovisual materials?

When you talk audiovisual, you are talking about public performance rights. Are you ready for how they define "public?" "A place open to the public or at any place where a substantial amount of persons outside of a normal circle of a family or its social acquaintances is gathered..." Showing a film to a class of students constitutes a public performance. Fair use? Yes, if you meet all four requirements:

1. the performance is presented by teachers or students (This means the students enrolled in your class. No visitors, no random students.)
2. the performance must occur in the course of face-to-face teaching activities (Unless you have public performance rights, movies cannot be shown for entertainment or reward. Movies at indoor recess are a big no-no, unless you have public performance rights. Showing the movie version of a book you just studied, *after you are done teaching it*, as a reward, actually violates public performance rights because instruction is no longer occurring.)
3. the performance must take place in a classroom or similar place of instruction in a non-profit educational institution (Showing a movie on a school bus en route to a field trip does not count.)
4. the performance must be a legally acquired (Pretty much, it just can't be bootlegged EXCEPT if it was taped off air, THEN there are off air taping guidelines...).



Justified paranoia

It's one thing to violate copyright by copying and distributing a workbook page in the privacy of your own classroom. *Maybe* it was spontaneous. Teachers routinely get away with illegal copying "for educational purposes" for the same reason not all people speeding get tickets. If you speed and don't get a ticket, that doesn't make speeding OK, it just means you didn't get caught. But if you put that article or worksheet on the Web, you are asking for it!

How does this affect me immediately?

Look back at the wording, specifically the examples of homework materials. It absolutely violates copyright law to post the text of an article online. Do not risk it. Second, it almost certainly violates copyright law to post the text of reference materials online. Third, unless you are the creator of the worksheet, you can't post that either.

It has always been important to aware of copyright laws and make sure that we do not violate them, but the stakes are being raised. We have until February to reflect on how we do what we do.

I'm no lawyer...but I *am* a librarian! So if you have any questions I will try my best to answer them. I have some legal "work-arounds," which I will include in next month's *Focus*.

Check out these sites for more information:

"Reproduction of Copyrighted Works by Educators and Librarians" (Circular 21, from US Copyright Office)
<http://www.copyright.gov/circs/circ21.pdf>

Jeffco Public Schools
<http://jeffcoweb.jeffco.k12.co.us/isu/library/copyright.html>

Copyright and Fair Use in the Classroom, on the Internet, and the World Wide Web (from the U of Maryland)
<http://www.umuc.edu/library/copy.shtml>

*Ignorantia Iuris Neminem Excusat means ignorance of the law excuses nobody!



Phase I R&Ds are due to Curriculum Associates (or to building Principals if you don't have a CA) by October 10 at 3:30 pm.

JTA Wear

Jackets - \$40.00

T-Shirts - \$12.00

Polo shirts - \$18.00

Get a new shirt for homecoming!

