Copyright/Fair Use Scenarios

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The Four Factors
1. The purpose and character of the work
2. The nature of the copyrighted work
3. The amount and substantially 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

Other factors to consider
- Is it a face-to-face interaction? Or is it posted online?
- Did the teacher change the format (i.e. from print to digital)
- How many times it is being used? (single year or year after year)
- Is there sufficient time to ask for permission between the idea and the use?

Fair Use Scenarios – Please use the information above to determine if each scenario would fall under fair use.
1. In your 9th grade English class you use a four minute video clip from the 1996 film *Romeo and Juliet* to introduce your Shakespeare unit in class each year. You own a personal copy of the movie and will be showing the clip in class using the classroom DVD player.
   - Does this use fall under the fair use doctrine?
     - If yes, explain your rationale using the four factors.
     - If no, how could the teacher adjust to avoid a copyright violation?
   - Would your answer change if the teacher posted the clip online?

2. Your Chemistry students need more practice on mole conversions and you have given them all the resources you made and that are available with your textbook. You have a digital copy of a practice workbook for a different textbook that you used when you work at another school. You make copies of the 3 pages of practice worksheets for your students. You also post an answer key on your course management page.
   - Does this use fall under the fair use doctrine?
     - If yes, explain your rationale using the four factors.
     - If no, how could the teacher adjust to avoid a copyright violation?
   - Would your answer change if the teacher posted the worksheet online?

3. You would like to update the images in your PowerPoint on World War II. You do a google search and find 10 images from history.com and archives.gov. You copy each image, paste into your PowerPoint and properly cite each image. You then upload the lecture to your course management site (so that students may review it), and use it for direct instruction during class. You plan to use the same PowerPoint for the next few years.
   - Does this use fall under the fair use doctrine?
     - If yes, explain your rationale using the four factors.
     - If no, how could the teacher adjust to avoid a copyright violation?
   - Would your answer change if the teacher PowerPoint was only used in class for one year?
4. You are teaching AP Statistics and want your students to practice free response questions. You received many resources from the AP conference you attended over the summer including copies of the free response section of old AP exams from the College Board. You find a great 5-part question from an old exam. As it is early in the year, you have only covered parts a, b and c. You retype the question, changing parts d and e to be more appropriate for your students and photocopy the assignment for your class. You also edit the scoring guidelines for your own personal use while grading.

- Does this use fall under the fair use doctrine?
  - If yes, explain your rationale using the four factors.
  - If no, how could the teacher adjust to avoid a copyright violation?
- Would your answer change if the teacher posted the question online?

5. You are teaching functions, and need a graph of a cube function. You google “cube function graph”, find that there are 40 very similar images for a generic cube function. You pick an image for the function, copy it into a notes sheet you are making for your students, carefully citing the image with the URL from the website. As you do with all your notes sheets, you copy the notes for each student and post a copy on your course management website in case someone is absent.

- Does this use fall under the fair use doctrine?
  - If yes, explain your rationale using the four factors.
  - If no, how could the teacher adjust to avoid a copyright violation?
- Would your answer change if the image was scanned from a textbook?

6. You have a new textbook and you create a reading guide with vocabulary, reading questions and an essay for each chapter. You include some quotes directly from the textbook and refer to images in the textbook. You post the reading guides on your course website and students use the reading guide while they read the textbook at home each night for homework. While at a conference you meet several other teachers who use the same textbook and use a flash drive to transfer copies of your reading guides to the other teachers and in exchange, they provide you with copies of worksheets and tests they have created using the textbook.

- Does this use fall under the fair use doctrine?
  - If yes, explain your rationale using the four factors.
  - If no, how could the teacher adjust to avoid a copyright violation?
- Would your answer change if you shared the resources using an online forum instead of in person?