Basic Copyright Law for Use of Materials in Childbirth Education Classes

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ABSTRACT

Copyright is federal law that creates a monopoly to protect the property rights of authors and creators and their original works. Copyright law creates an exception for classroom use, but educators must always give full attribution for any work they use in teaching.

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READER'S QUESTION

In Lamaze Parents *Childbirth Educator News* (published by iVillage Parenting Network, Inc.), which arrived in July 2004, I read the teaching tip sent in by Kassa Boyett, RNC, MSW, WHNP, about using a humorous clip from Bill Cosby's video, "Himself," as an icebreaker. All the LCCE educators I know use this clip. Are we setting ourselves up for a big problem with copyright infringement? I suggest Lamaze International look into possibly putting this segment on a video for use in class. Would Bill Cosby donate this valuable tool for promoting natural childbirth? I want to keep using the clip, but I want to know what my liability is and if there is a way to use the clip without infringing on the copyright. Thank you in advance for any information you can provide.

Sincerely,
K. P.
RN, CMC, LCCE

COLUMNIST'S REPLY

All educators should know basic copyright law, so you are asking an important and fundamental question. The good news is that it appears from your question that you and many other teachers who are using this tape (as well as other tapes, discs, and even printed matter) are probably not in violation of the copyright laws.

First, what is copyright? It is protection in federal law (U.S. Code: Title 17) for authors of their original works, whether published or unpublished. This is a personal property right, so it may be affected by state laws of intestate succession (inheritance). Present works that are not copyrighted or registered with the appropriate federal office may not be protected, but I suggest that you treat all work as if it were protected. In general, an author/creator has the exclusive right to reproduce, perform, and sell his or her work.

Copyright law gives the author/creator a kind of limited monopoly to protect the author/creator's rights, but it also defines "fair use" to balance the

interests of the public with the interests of the copyright holder. “Fair use” of a copyrighted work, including use by reproduction in copies or by other means, for purposes such as teaching (including multiple copies for classroom use), is not an infringement of copyright (U.S. Code: Title 17, Section 107).

Copyright law makes protection of the author/creator’s monopoly the general rule. Then it creates exceptions to the general rule. One of these exceptions to copyright monopoly is granted to an instructor and to students “in a classroom or a similar place devoted to instruction” *unless* the use of the work involved using a copy that was not lawfully made and the person responsible “knew or had reason to believe” that it was not lawfully made (U.S. Code: Title 17, Section 110). A nursing program administrator at an accredited nonprofit institution once told me that faculty members were not permitted to distribute any handouts of published works in class because of copyright laws. Nonsense! This is an unacceptable barrier to quality education.

Obviously, you must not abuse this privilege, and the law provides you with further guidelines. This exception only applies in the following instances: if the work shown is directly related to the teaching content; if the work shown is limited to your target audience; if you do not charge for it, that is, do not engage in commercial exploitation; and if your use does not lead to unauthorized further dissemination of the work to others. Does your use meet these four criteria? The exception for teaching includes making multiple copies of handouts for classroom use, but that may not apply if you can obtain copies at a reasonable price. We could argue about that reasonable price, but the Bill Cosby “Himself” video is available for less than \$10 per copy, so you can reasonably expect that no teacher would need to copy it for classroom use unless it became unavailable for purchase.

Many childbirth educators are familiar with the works of Bill Cosby and of other artists and writers who were inspired by their birthing and parenting

Treat all work as if it were protected by copyright laws.

Respect the work of others and use common sense and common courtesy.

experiences to create art, scientific research, or other written, audio, and video products. Instructors’ use of these works in childbirth classes is directly related to preparing expectant parents for a successful transition to parenthood. This is an integral part of the class experience, under the supervision of the instructor who is face-to-face with the students and demonstrates “fair use” of the work.

If you or other instructors have purchased this Cosby tape, feel free to use it to help you meet your educational goals for the expectant parents in your classes. The bottom line is to respect the work of others and to use common sense and common courtesy. Authors/Creators and the public interest both suffer if educators fear using published work in their classes. When in doubt about the use of any published or unpublished work, check the law and/or contact the creator of the work for permission. And always, always, give full attribution for any work of others.

NOTE TO READERS

“Ask an Expert” answers are not official Lamaze International positions and are not intended to substitute for consulting with your own attorney or other certified professional. Nayna Philipsen welcomes your questions. Please send them to “Ask an Expert,” Lamaze International, 2025 M Street NW, Suite 800, Washington, DC 20036-3309, or via email to naynamom@aol.com.

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