

Chapter Nineteen

Digital Resources and the Law: Web Sites for Librarians and Educators

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The use and creation of digital materials in the library and classroom requires librarians and educators to be knowledgeable about legal issues that were not considered in the past. For example, whereas intellectual freedom and censorship have been issues for librarians, a heightened level of concern over children's access to unregulated information on the Web elevated these issues to a new level of importance due to pressure from parents. Legislators have responded to pressure for protective measures for children by enacting laws and, in course, courts have reviewed, interpreted, and ruled on the validity of the legislation.

Librarians and educators, acting *in loco parentis*, have an obligation to be aware of these evolving areas of law. This chapter focuses on Web sites that can help librarians and educators follow the course of legislation in education, copyright, fair use, and acceptable use of the Internet so that they can act with information in the classroom and library.

Copyright and fair use became "hot topics" with the introduction of the Internet. Copying materials is not an issue to be considered at the photocopier. Information on the Web, which is freely accessible, is not, in fact, free for use in any manner

the searcher desires. In the virtual world, it is easy to overlook the author who has an investment in the product expressed in a particular form. An author's rights concerning others' use and alteration of the work accompany the precise form of expression. Librarians and educators must know where permissible use of a work ends and infringement begins.

This selective Webliography highlights sites offering primary legal information as well as overviews on these issues. Sites were evaluated on authority of the source, accuracy of information, depth of coverage, objectivity of the author, and currency of information and links.

Acceptable Use

The unregulated World Wide Web exposes students to inappropriate information. Acceptable Internet Use Policies enable librarians and educators to set forth in writing rules for use and access. Often it is a requirement that these policies be reviewed and signed by the student and the parent with the desired effect of providing notice and securing a waiver of liability for the library or school.

Numerous Web sites discuss Acceptable Use Policies, usually produced during the time period 1998–2000, which appears to be a critical period for the evolution of the kind of information. Many of the sites offer samples of policies developed for schools. The sites listed below offer overviews of the topic and provide links to other resources.

Education World, Inc.

URL: http://www.education-world.com/a_curr/curr093.shtml

This well-organized site is an excellent starting point for the development of an Acceptable Use Policy. The site contains explanations about the need for a policy and summarizes the National Education Association's suggestions for an effective policy. Links to sample policies and other Acceptable Use Policies and related Web resources are provided. Use the search engine with "Acceptable Use Policy" as the search term for a listing of policies and resources.

Web Issues in Education

URL: <http://www.unf.edu/~ccavanau/internet/issues.htm>

The site explores the underpinnings of an Acceptable Use Policy, provides examples of sites that have Acceptable Use Policies, and links sites on child safety, browsers, and filtering software.

Responsible Netizen

URL: <http://responsiblenetizen.org/onlinedocs/pdf/srui/sruilisting.html>

Nancy Willard, a lawyer with a record of publication on Acceptable Use Policy and Copyright legal interpretation, is director of this organization. Many documents are freely available for downloading, including *Legal and Ethical Issues Related to the Use of the Internet in K-12 Schools*, and *What is Right and What is Wrong? How can we help young people use information and communication technologies in an ethical manner?*

Censorship and Intellectual Freedom

The ALA Office of Intellectual Freedom Web site states that "Intellectual Freedom is the right of every individual to both seek and receive information from all points of view without restriction." This issue has been of great concern for librarians and educators for far more years than the life of the Internet. Yet, the concern over the information that is accessible by children has made this, along with filtering, hot topics for the public as well as legislators.

American Civil Liberties Union

URL: <http://www.aclu.org/>

This is a very good site for browsing or searching for court cases on censorship and intellectual freedom. Choosing "Cyber-Liberties" from the "Issues" column on right side of the screen brings up a well-arranged page for browsing news "Highlights," legislative information, information on pending court actions, and links to other resources. An alternative is to click the search button at the bottom of the main page. The user can search terms to retrieve ACLU News Releases and NewsWire Items.

American Library Association Office of Intellectual Freedom

URL: <http://www.ala.org/ala/oif/basics/intellectual.htm>

This site offers a wealth of information on all aspects of this issue. The link to "Intellectual Freedom Statements and Policies" and "IF Issues" will pull up lists of topics and issues including those related to use of digital resources.

Children's Internet Protection Act (CIPA), and Neighborhood Children's Internet Protection Act (NCIPA)

These two acts, which went into effect on April 20, 2001, restrict the use of federal funding by libraries unless blocks or filters to prevent access to certain Internet materials are used. CIPA was recently challenged by libraries in federal court in the Eastern District of Pennsylvania, resulting in the court holding that CIPA violates First Amendment rights of patrons and is therefore invalid. The U.S. Supreme Court upheld CIPA in June 2003.

American Library Association's CIPA Web Site

URL: <http://www.ala.org/ala/washoff/WOissues/civilliberties/cipaweb/cipa.htm>

This site provides a good overview of the history of CIPA legislation, with links to news from following the legislation through the recent litigation and current status. Links at the bottom of the page take the user to a comprehensive selection of resources such as headlines, litigation, press release pages, the full text and summary of the legislation, Q & As, and regulations and guidance pages. NCIPA updates can be found at <http://www.ala.org/ala/oif/ifissues/ncipa.htm>.

Copyright

National Education Association

URL: <http://www.nea.org/app/search/performSearch.do?queryText=copyright>.

Useful links are: Copyright and Higher Education , “ NEA Today- Extra Resources on Copyright” , and specific information about the TEACH (Technology, Education, and Copyright Harmonization) Act .Other links to Copyright and Multimedia Law Computer Policy and Law (Cornell University), as well as the U.S. Copyright Office are helpful connections.

Legal Information Institute (Cornell)

URL: <http://www.law.cornell.edu/wex/index.php/Copyright>

The Legal Information Institute of Cornell Law School provides access to most sections of the U.S. Code. By linking to an overview article, you can learn about the prevailing concepts in Title 17: Copyright. The user can access the actual text of the Copyright statutes.

Stanford University Libraries: Copyright & Fair Use

URL: <http://fairuse.stanford.edu/>

The site is a gateway to a wealth of information on copyright. U.S. statutes and regulations, international treaties and conventions, court opinions, and Web resources are linked in the site. This site has been recognized by The Scout Report, legal.online rating, and is an Education Index Top Site.

United States Copyright Office: Library of Congress

URL: <http://www.copyright.gov/>

This site is a section of the Library of Congress web site. (The U.S. Copyright Office is a part of the Library of Congress.) The “About Copyright” section provides a clear and comprehensive overview of copyright with links to laws and regulations. “Law and Policy” contains pertinent laws and regulations, *Federal Register* notices, and current legislation that can be accessed directly. The

“Hot Topics” section (as of April 2004) features a page on *Anticircumvention Rulemaking*.

What Is Copyright Protection?

URL: <http://www.whatiscopyright.org/>

This page gives an overview of copyright based on the Berne Union for the Protection of Literary and Artistic Property (Berne Convention), which is applicable to member countries. This is not an U.S.-based site. In fact, there are no references to the laws of any country in particular. This nonprofit Web site is written, maintained, and owned by an attorney in a question and answer style. For the implementation of the Berne Treaty in the U.S., see Berne Convention Implementation Act of 1988 Pub. L. 100-568, Oct. 31, 1988, 102 Stat. 2853 Short title, see 17 U.S.C. 101 note.

The following sites are intended for educational applications:

The Copyright Crash Course (University of Texas)

<http://www.utsystem.edu/OGC/IntellectualProperty/cprtindx.htm#top>

Although not the easiest layout to follow, valuable information is presented in a less-than-dry manner. Educators need to look carefully at “What is fair use?”

Regents Guide to Understanding Copyright and Educational Fair Use (University System of Georgia)

URL: <http://www.usg.edu/admin/legal/copyright/>

This site offers legal highlights about copyright and illustrative examples of *Fair Use*.

From Pokemon® to Picasso, Art Rights and Wrongs

URL: <http://library.thinkquest.org/J001570/>

This site, created by elementary students for the ThinkQuest Junior 2000 competition, won a Silver Award for the students, who are from an elementary school in New York City. Their explanation of image copyright is creative, comprehensive, and understandable to other youngsters.

Lean Mean No Fat Guide to Fair Use

URL: http://www.techlearning.com/db_area/archives/TL/2002/10/copyright.html

This test, by Hall Davidson, is for teachers, and is interactive. The new version was introduced in late 2002.

Education Law

Education law comprises many issues that are not addressed in this Webliography, which is focused on law in the context of digital resources. Nevertheless, there are some valuable sites that are good starting points when researching any education law issue.

Legal Information Institute (Cornell)

URL: http://www.law.cornell.edu/uscode/html/uscode20/usc_sup_01_20.html

The Legal Information Institute of Cornell Law School provides access to most sections of the U.S. Code. By linking to *Title 20: Education*, the user can access the actual text of the Federal Education statutes.

Franklin Pierce Law Center

URL: <http://www.faculty.piercelaw.edu/redfield/library/index.library.htm>

The primary purpose of this site is to promote the education law program at Franklin Pierce Law School in New Hampshire. However, the link to the *EdLaw Online Library* provides easy access to court opinions that are listed alphabetically by case name, provisions of the U.S. Constitution, the U.S. Code and Federal Regulations, as well as links to state education agencies, national special education agencies, special advocacy groups and articles on current education issues.

MegaLaw.com

URL: <http://www.megalaw.com/top/education.php>

Links to recent U.S. Supreme Court and federal education cases, education statutes by state, government agencies, state education departments, and education legal Web sites.

The New Jersey Department of Education: Administrative Code

URL: <http://www.nj.gov/njded/code/>

Contains the Administrative Code— Education. Use this source to look up pending legislation affecting education in the state. The New Jersey Education Site also contains *The New Jersey State School Report Card* (<http://education.state.nj.us/rc/>).

Legal Information Institute at Cornell Law School Education Law: An Overview.

URL: <http://www.law.cornell.edu/> Select “LawAbout” Then Select “Education”.

The links to each state’s statutes on education can be found at this site by using the search engine provided. Both education and higher education statutes by state are listed.

FindLaw Library: Education

URL: <http://www.findlaw.com/01topics/37education/sites.html>

Education law issues can be located by clicking through several different subject areas. For example, “Legal Professionals” leads to “Legal Subjects” and then “Education Law”; “Business” to “Intellectual Property” to “Copyright”; and “Public” to “Education.”

American School Board Journal

URL: <http://www.asbj.com/schoollawarchive/>

This site contains extensive school law topical archives of the School Law section of the *American School Board Journal*.

Specific Topics in Education Law

Equity of Access for Students with Disabilities: Legislative Resources

Use these sites to find legislative histories of acts on the subject.

University of Michigan Documents Center

URL: <http://www.lib.umich.edu/govdocs/legchart.html>

The history of the legislative process is a highlight of the site, which also provides links appropriate to the status of the impending legislation.

Special Education

Special Ed Connection

URL: <http://www.specialedconnection.com/LrpSecStoryTool/splash.jsp>

This site is a subscription based publication from LRP Publications. Forms, as well as updates on specific topics within special education law are available on the site, requiring a login. Free trials are available and links and resources are open to the public.

Ben's Guide to the Government

URL: <http://www.ed.gov/offices/OSERS/IDEA>

Use this and related links to see the provisions for disabled students in classrooms, K–12.

Conclusion

The Web sources listed in this chapter offer some of the best information available online and are by no means the only sites. Some sites were chosen for their legal content; others may not include relevant laws, yet give a good overview or introduction to the topic, which can be a launching point for further research. It is important to realize that with new issues, the law is constantly changing. There will be changes to laws that have an impact on what is available on these sites. Therefore, currency of

information on a site is particularly important when researching legal issues. In fact, lack of currency resulted in the elimination of several sites from the above list.

To be in touch with what is happening that affects library and education practice, these sites serve as beginning points. The ultimate test of their value is the information translated into policy and practice.

All URLs are current as of April 17, 2006.