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Copyright:
Policies, Resources, and Questions for School Librarians

School librarians curate resources in a variety of physical and digital formats for their learning communities. They promote access to these resources while also advocating for the rights of the creators of those same materials. Central to this responsibility is an adherence to ethical and legal use of materials and resources.

Teachers in K-12 schools often approach school librarians with questions about copyright. Many of these teachers are genuinely interested in using materials legally and ethically but are often unsure and seek advice. School librarians in these circumstances must be copyright aware to serve their own professional needs, ethics, and responsibilities, as well as those of other faculty and students. Consequently, copyright law and ethical practices are of key interest to librarians.

It was from concerns shared in a library science graduate program internship course at East Carolina University, that a deeper investigation of copyright instruction, policy and guidelines in North Carolina school libraries resulted. ECU's graduate program for future librarians provides an ideal place to discuss common questions and some of the nuances of fair use of materials. Some of the MLS students are already work-ing in libraries or serving as K-12 teachers themselves, and are thus able to bring real-world questions to copyright discussions. The practicing and preservice librarians involved in these discussions presented a variety of scenarios and concerns related to copyright and fair use in their current practice.

After those LIS class concerns were raised, the authors decided to conduct a survey of current school librarians to gauge existing sources for copyright knowledge, common questions that school librarians encounter, and awareness of copyright resources and local policies. The survey and its results are described and discussed below, followed by scenarios that could be used to model fair use determinations. These data and scenarios were presented by the authors at annual conferences for the North Carolina School Library Media Association and the North Carolina Technology in Education Society.

Background and Literature

Librarians see the continuous development and expansion of scholarly communication, audio and digital collections, and the demands of new services related to e-resources, publishing, and copyright.[1] School librarians, in many cases, also face the added responsibility of providing clear information and direction to classroom teachers on fair use and copyright in providing materials to students. The professional standards for school library media coordinators (SLMCs) in North Carolina include that they "[educate] students, teachers, and other members of the school community to use best practices in copyright, ethical access and use of resources, intellectual property, and digital citizenship." SLMCs are also evaluated on how they model best practices in copyright, ethical access and use of resources, intellectual property, and digital citizenship.[2]

Additionally, NC's Digital Learning Standards for Students require that they "demonstrate an understanding of and respect for the rights and obligations of using and sharing intellectual property," and SLMCs work with classroom teachers to help their students meet these standards.[3] The technology available today has made sharing, copying, and creating much more accessible, allowing anyone to be a publisher or a distributor of content, and thereby enhancing the significance of following clear copyright guidelines.[4]

Emergency circumstances like the recent COVID-19 pandemic served to make this job even more diffi-

[1] Zakir Hossain. "Copyright Literacy of Library and Information Science Professionals in Bangladesh." *IFLA Journal* 47, no. 1 (March 2021): 78–90. https://doi.org/10.1177/0340035220904067.

[2] State Board of Education. "North Carolina School Library Media Coordinator Evaluation Process." School Library Media Coordinators, May 2015. https://sites.google.com/dpi.nc.gov/ncees-information-and-resource/support-staff/school-library-media-coordinators.

[3] International Society for Technology in Education. "ISTE Standards: Students." ISTE, 2016. https://www.iste.org/standards/iste-standards-for-students.

[4] Karen Lagola. "A Teacher's Guide to Copyright and Fair Use." Edutopia. George Lucas Educational Foundation, March 22, 2021. https://www.edutopia.org/article/teachers-guide-copyright-and-fair-use.

cult. The *School Library Journal's* Fall School COVID-19 Impact Survey reported that librarians found themselves tasked with many new roles and duties during and following the pandemic.[5] They became responsible for taking the lead on technology, safety protocols, electronic device distribution, curbside pickup, and so much more, with no additional training to meet these needs. Many found the learning curve for this new model of librarianship to be overwhelming in additional to the more traditional librarian duties. Questions urgently arose for librarians on copyright issues related to virtual instruction, and use of materials and resources online.[6] During the pandemic with remote class instruction, teachers used movies, music, and online talks, and read books aloud. Many found materials online and used these digital resources, presenting new questions and issues to consider. In many cases, librarians and preservice librarians did not feel confident in their knowledge about copyright in some of these areas. Although not expected to be the "copyright police," school librarians do need high levels of copyright literacy, knowledge of fair use, and the ability to implement school and district copyright policy to better serve their communities. It is essential that practicing school librarians be comfortable in putting on their "copyright hats," as they serve their students and teachers.

Theory and Context

Graduate program instructors Wolkenhauer and Hooser examined inquiry community in their recent study, finding that preservice education and preparation can be advanced through use of this framework. These graduate educators designed their courses to embrace inquiry community to provide better support for developing preservice educators. Findings in this study demonstrated that interns can enrich and ground their work through a community of inquiry and practice.[7] This approach represents a process of creating a deep and meaningful learning experience through the development of three interdependent elements – social, cognitive, and teaching presence.[8]

According to Wenger-Trayner, a community of practice includes a domain or area of shared interest, a community, and a practice.[9] The shared area of interest for this group was legal and ethical use of copyrighted materials, including fair use, teaching exemptions, and Creative Commons or other applicable licenses. The community of practice for this study were librarians and preservice librarians who shared experiences and built relationships to learn from and with each other. This community of practice shared a mutual engagement, a joint enterprise, and a shared repertoire, three dimensions of community practice.[10]

Most of the students in this graduate program community were already employed educators, many of whom were in school librarian positions. Their practice was towards effective and responsible service to the teachers and students in their schools. This group of librarians presented similar questions, experiences, and concerns. Their stories, tools, guidelines, and procedures were similar. From this community they developed a collective practice to address their needs and gained knowledge to better serve their constituents.

Knowledge, understanding, and meaning making may be most effectively developed in communities of practice such as graduate level internships.[11] There is clear indication that the lived experience bridging theory and practice that is an internship enhances understanding of the totality of one's actions.[12] An examination of questions presented within the library internship program through the lens of community of inquiry/practice reinforces the perception that learning is constituted through the sharing of purposeful, patterned activity.[13] The

[5] April Witteveen. "The Year of Doing Everything." *School Library Journal* 66, no. 11 (November 2020): 26–29.

[6] "Copyright." I Love Libraries. American Library Association, March 26, 2022. https://ilovelibraries.org/copyright.

[7] Rachel Wolkenhauer, and Angela Hooser. "Becoming Clinically Grounded Teacher Educators: Inquiry Communities in Clinical Teacher Preparation." *Journal of Teacher Education* 72, no. 2 (March 2021): 168–79. https://doi.org/10.1177/0022487120915865.

[8] D.Randy Garrison, Terry Anderson, and Walter Archer. "Critical Inquiry in a Text-Based Environment: Computer Conferencing in Higher Education." *The Internet and Higher Education* 2, no. 2–3 (March 1999): 87–105. https://doi.org/10.1016/S1096-7516(00)00016-6.

[9] Etienne Wenger-Trayner, and Beverly Wenger-Trayner. "Introduction to Communities of Practice." BEtreat. Wenger-Trayner, 2015. https://wenger-trayner.com/introduction-to-communities-of-practice/.

[10] Etienne Wenger. *Communities of Practice: Learning, Meaning, and Identity.* Cambridge, UK: Cambridge University Press, 2018, pp 72-73.

[11] J. Lave, & E. Wenger, *Situated learning: Legitimate peripheral participation.* Cambridge, UK: Cambridge University Press, 1991.

[12] John Seely Brown, Allan Collins, and Paul Duguid. "Situated Cognition and the Culture of Learning." *Educational Researcher* 18, no. 1 (January 1989): 32–42. https://doi.org/10.3102/0013189X018001032.

[13] Lave & Wenger.

internship as a community of practice provided an avenue for development of knowledge and understanding of copyright and the many nuances of fair use.

Survey

In order to discover what school librarians and their administrators knew about local copyright policies, where they learned about copyright, and what kinds of questions they were asked, we developed a brief survey using Qualtrics. The University's Institutional Review Board determined that this survey had an exempt status, so Thomas and Dotson distributed it via email for six weeks during the spring of 2021. The survey invitation was sent to current ECU MLS students and to alumni who are practicing librarians via university-maintained listservs, and to a list of principal contacts derived from the North Carolina Department of Public Instruction's EDDIE, the authoritative source for NC public school numbers and demographic information.[14]

There were 140 usable responses, with 129 of them coming from traditional public schools, nine from charter schools, and two that did not disclose. The majority of respondents were media center personnel (102 respondents) compared to administrators (38). Responses were received from 56 of North Carolina's 100 counties, across all regions of the state. Respondents were asked about the number of years in the current position and about their total number of years in education. While 54 respondents had five or fewer years in their current position, 83 had more than 15 years total experience.

Only 11 respondents reported five or fewer years of total experience. This suggests that a large number of our respondents had significant total experience, even if some of them were relatively new in their current positions. See Figure 1: Years Experience.
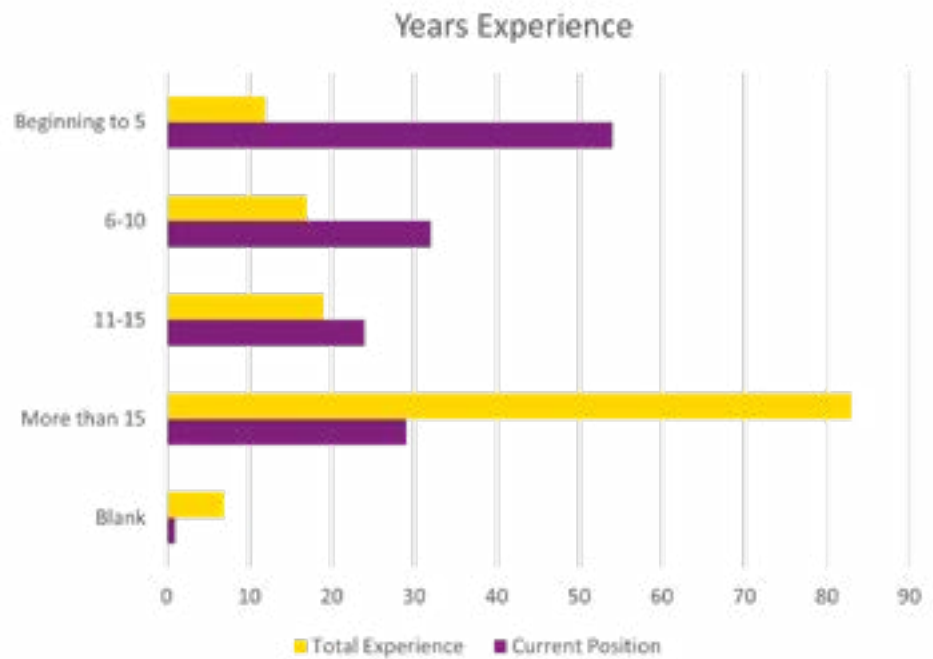

Figure 1: Years Experience

Results and Discussion

Respondents could select one or more sources for learning about copyright. Library science programs received the largest number of responses, with 101, followed by reading or viewing copyright resources individually, at 85. The next most selected option was education graduate programs at 46, followed closely by workshops/ professional development external to the school system (43) and then workshops internal to the school system (38). There were also 17 "other" answers, which included multiple mentions of the media specialist, as well as the principal and Creative Commons. Also mentioned were

district policies, the local IT department, listservs, Coursera, and even the US Copyright Office (which does have circulars and some introductory videos). The comparatively low responses for professional development, either external or internal to the school system, suggest a significant opportunity for systems to offer workshops on copyright and fair use, and promote them.

Two questions addressed local policies. The first asked whether their district had a policy on the use of copyrighted materials. One hundred four respondents answered yes, while ten said no and 25 were not sure. There were some district policy links that were collected with a different question later in the survey. These tended to be "acceptable use policies" affirming employees' responsibility to use copyright materials legally or under fair use, and some of them further stipulated that the superintendent or

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14 North Carolina Department of Public Instruction. "Educational Directory and Demographic Information Exchange (EDDIE)." NCDPI. http://apps.schools.nc.gov/eddie.

the superintendent's designee would provide information and training to district personnel and students. The second policy question asked whether the district had a policy on ownership of copyrightable materials. Responses were much less certain: 39 answered yes, 37 no, and 62 were not sure. See Figure 2: Awareness of Policies.

school district offered copyright-related professional development had the least agreement, with 42 yes answers, 70 no, and 28 maybes. See Figure 3: Resources.

Respondents could select one or more options to indicate common copyright questions. The largest number addressed proper use of au-

were a dozen "other" responses. Eight of those dozen were some variation on the message that teachers "don't ask copyright questions," although there were also questions brought up about murals, use of images, and resources for teaching students about copyright. See Figure 4: Common Copyright Questions.
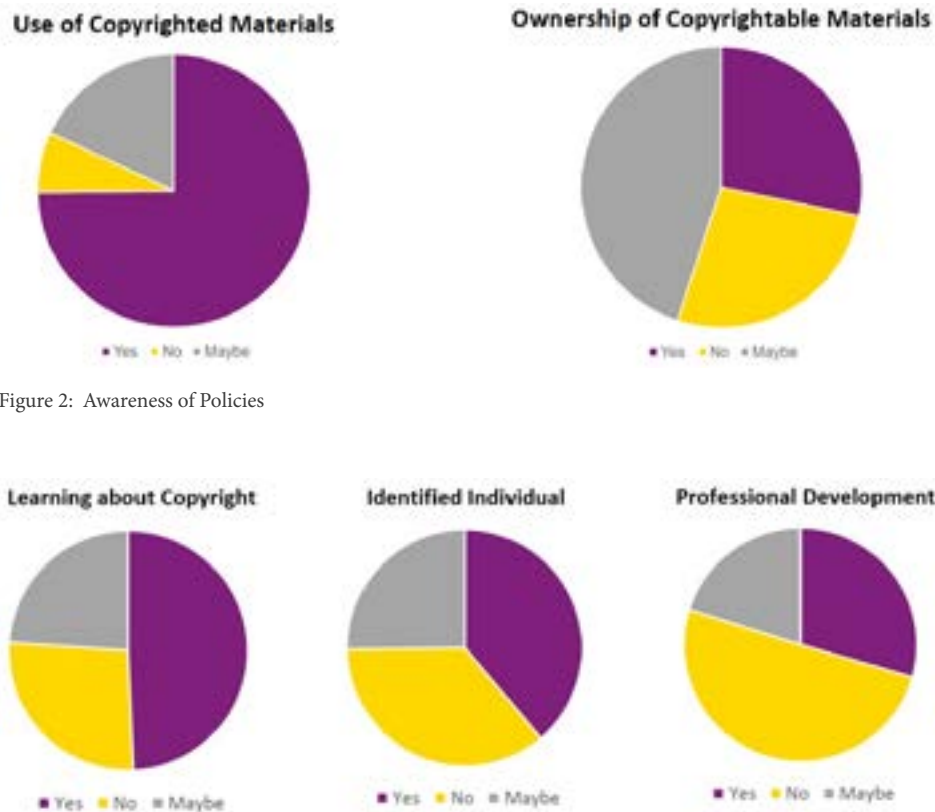
Figure 2: Awareness of Policies

Figure 3: Resources

There were three questions focusing on awareness of copyright resources. One was about online resources, a second about whether an individual had been designated as a copyright expert, and the third asked whether the district offered professional development. Online resources were best known, as 68 respondents replied yes, while 37 said no, and 33 answered maybe. When asked whether the district had an individual identified to lead copyright instruction or answer questions, 54 people said yes, 50 no, and 35 selected maybe. Whether the

dio or video resources online (100), followed closely by the proper use of audio or video in the classroom (93). There were 66 responses about the proper use of text-based resources online, and 50 for text-based resources in the classroom. Incorporating copyrighted materials into new works created by school employees garnered 51 responses, and there were 38 responses for questions about copyright ownership of materials created by school employees. A small number of responses addressed questions about reformatting materials (27), and there

The survey ended with text boxes in which respondents could enter URLs for policies related to copyright or copyright resources, and finally a free-text field that could be used for anything else the respondent wanted to share. As mentioned above, several respondents included links to their district policies. There were only 13 free-text responses, and these can be generally described as expressing a need for professional development and for district leadership.

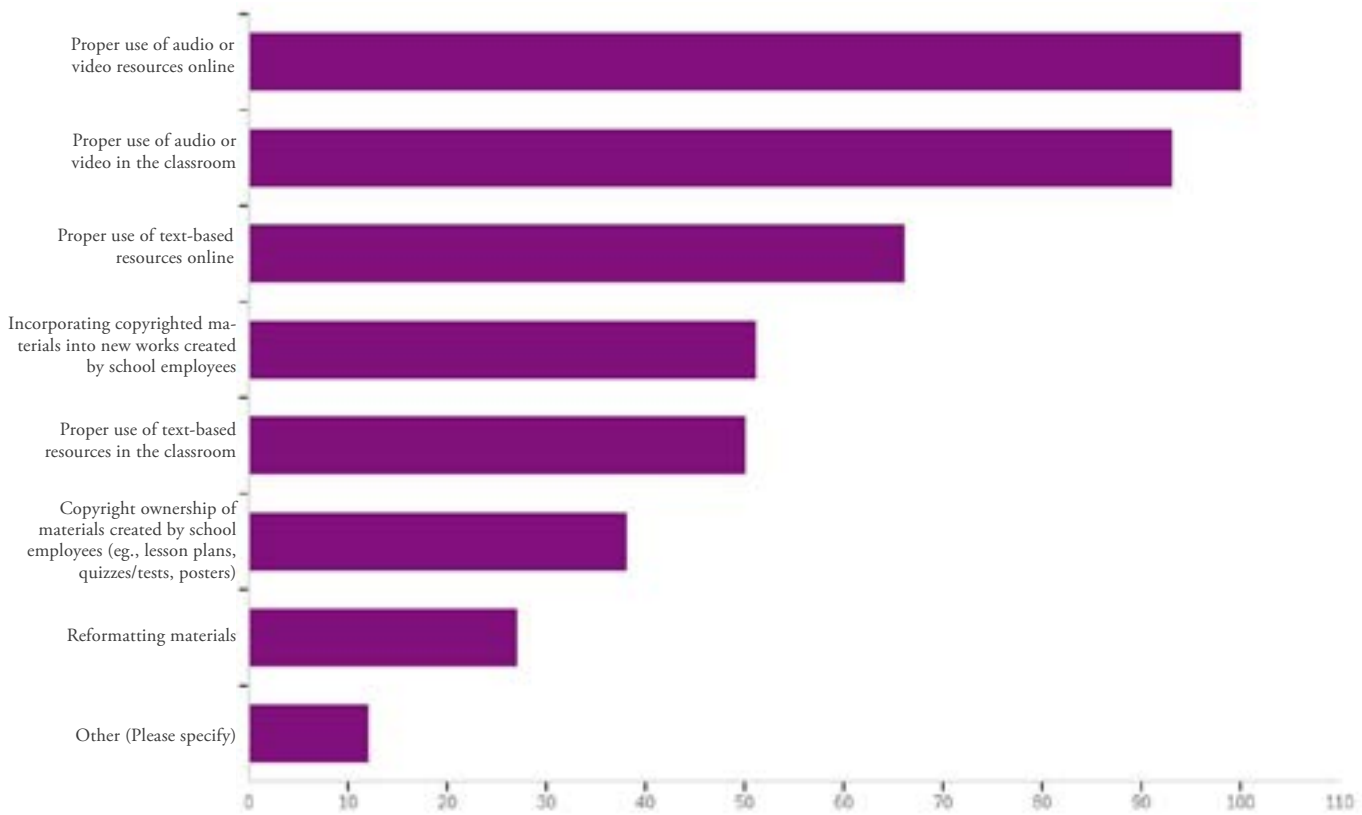In addition to the stated desire for professional development, survey

Figure 4: Common Copyright Questions

results suggest further concrete steps that school administrators can take to support their SLMCs and faculty. One of them is to increase internal professional development opportunities. Another is to clearly identify key contacts, whether they include the SLMC and/or others within the school or district office. A third step that school administrators can take is to increase the visibility of resources that already exist, for instance the NCWiseOwl Toolkit which includes specific resources geared toward school librarians and responses to copyright FAQs from educators.[15]

As the survey results were reviewed, two other possibilities occurred to the authors. One is for LIS programs to map out where they do (or could) incorporate information about copyright and fair use within the curriculum. Another is that school and district administrators could consider whether to develop additional resources around the Acceptable Use Policies that already exist within the districts. Resources that help teachers and school media personnel feel more comfortable weighing fair use or selecting alternative materials will become more important as changes in the landscape continue to emerge. Sites like Teachers Pay Teachers and the proliferation of educational content on platforms like YouTube and TikTok are examples of the increasing complications of the copyright and fair use decisions that faculty members face.

Recommended Strategies and Tools

One of the NC Digital Learning Competencies for Teachers states that they "take initiative with [their] own professional growth….".[16] Frequently, when it comes to intellectual property issues, school librarians must independently seek out their own learning opportunities. As evidenced by the survey, respondents did not identify school districts as providing them with the majority of sources for learning about copyright. Fortunately, many valuable learning opportunities *do* exist and are readily available. Access to content on copyright and fair use has even been accelerated by the pandemic.

As educators went into crisis mode to transition their in-person instruc-

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[15] "Copyright Support." NCWiseOwl Toolkit. NC Department of Public Instruction, May 9, 2022. https://ncdpi.instructure.com/courses/1276/pages/copyright-support.

[16] "About the NC Digital Learning Competencies for Classroom Teachers." Digital Teaching and Learning Standards. NC Department of Public Instruction, June 19, 2019. https://www.dpi.nc.gov/districts-schools/districts-schools-support/digital-teaching-and-learning/digital-teaching-learning-standards.

tion to online practice, intellectual property became the focus of many webinars, journal articles, and virtual conference sessions. Indeed, at several conferences, the authors presented their research and proposed a four-part strategy that school librarians and faculty can use:

1. Link to authorized content
2. Conduct a fair use analysis
3. Substitute (with an item in the public domain or one bearing a Creative Commons license)
4. Seek permission for the intended use.

There are multiple tools available to help teachers think through fair use, including Columbia University's Fair Use checklist, the American Library Association's Digital Copyright Slider and Fair User Evaluator, as well as the NCWiseOwl Toolkit mentioned above. In addition to those tools, the authors helped session attendees think through fair use analyses using some common scenarios. It is important that librarians build the capacity of their faculty and students to make good faith decisions for themselves. Encouraging librarians to be thought partners, the authors modeled this through targeted questions for participants as they considered nuances of scenarios that may occur in their practice:

- "Can I record myself reading aloud and post it to social media?"
- "If we have purchased enough hard copies of an anthology for each student, can a teacher upload a PDF of a short story from the anthology to the learning management system, for the students who must participate virtually?"
- "May I play a Hulu documentary for my class?"

For the first scenario about posting a read-aloud, participants were encouraged to consider the purpose of the proposed read aloud such as if it was part of an instructional lesson, involved commentary, engaged students about literary elements, etc. which is transformative and favors fair use. This scenario mentions posting to social media, so "thought questions" for the audience included: Is it more responsible to limit access to one's students by posting the read aloud to a learning management system or Google Classroom rather than to social media? Or, is the social media post to a closed group only for one's students? Rather than posting openly to the web, limiting access to one's students may help an educator feel more confident in his/her fair use determination. Attendees considered if this use could substitute for the original work and negatively affect the market for the work. Does making the post timebound increase the educator's confidence in a fair use argument?

Scenarios like the second one about uploading scanned copies of printed texts were prevalent during the pandemic as teachers quickly shifted to emergency, online instruction and students lost access to physical resources in brick and mortar classrooms. Because this scenario involves scanning a short story and transmitting it digitally, some educators may decide that it surpasses their comfort level, but the nuances of this scenario are worth considering further. Again, modeling discernment through questioning, attendees considered: Is the use of this anthology governed by a specific license agreement that one

must abide by? If not, then a fair use analysis could proceed. Further questions that the audience reflected on were: What is the purpose of the use? As part of an instructional lesson does it favor fair use by being transformative i.e. involves commentary, engages students about literary elements, etc.? Does the emergency situation have any bearing on a fair use determination? Has only the smallest amount necessary been used? Is access limited to just the students? Can this use substitute for the original, i.e. does this use have a detrimental effect on the market? Since physical copies of the work were purchased, is a fair use argument strengthened? Does making the use time bound increase the educator's confidence in a fair use decision?

In the third scenario, one may substitute other online streaming services for Hulu and follow the same line of thought. Viewing this scenario through a copyright and fair use lens does not require as many thought questions as other frequently asked copyright questions. The first question posed was: What does Hulu's terms of service permit? Hulu's terms specify personal use. When one accepts a company's End User License Agreement, Terms of Service, Terms of Use, etc., one is bound to abide by it. Therefore, educators may decide on alternative options, including substituting a licensed streaming video from a service like Swank or Kanopy, using a DVD for in-person instruction that would fit within the classroom exemption, section 110.1 of US copyright law,[17] or seeking permission to stream from the rights holder.

[17] "17 U.S. Code § 110 - Limitations on Exclusive Rights: Exemption of Certain Performances and Displays." Legal Information Institute. Legal Information Institute. Accessed May 24, 2022. https://www.law.cornell.edu/uscode/text/17/110.

Consultants in the Division of Digital Teaching and Learning at the NC Department of Public Instruction can connect educators, especially library media stakeholders, with resources that may help equip them to think critically about copyright and fair use and to support their colleagues and students in doing the same. Moreover, the division provides professional development in multiple venues, as well as resources for teaching and learning about copyright and fair use through its NCWiseOwl Toolkit. NC school librarians and their leaders are encouraged to contact the NCDPI School Library Consultant to learn more about available support.

Conclusions and Implications

As resources shift to varied, digital formats, and issues become more complex, particular attention from experts in the specific area of copyright would lend support to preservice librarians, their graduate programs, and their school sites. Colleagues who share information, advocate for best practices, and effectively support interns in the graduate education programs for librarians would enhance skills and expertise of those in the community of practice. It is also important to note that other educators, teachers, and administrators can also benefit from the specialized skills and expertise of colleagues in the community in shared partnerships towards greater learning.

It is clear that preservice librarians need professional learning around copyright. Consultants in the public school and university systems can provide information and support to the preservice librarians in this area. Further, it is essential that graduate programs point students in the direction of additional support so that they may intentionally seek out their own learning opportunities. Graduate programs can supply contact information about experts in the field to both students in the program and alumni practicing at large.

Librarians in the study brought additional attention to the need for defined copyright policies. These would serve to support the confidence of librarians in dealing with issues of copyright, acceptable use, and intellectual property. The authors suggest that policies and resources be developed and clearly visible to NC educators. Providing policies, resources, and professional development should be a continued focus in school systems as well as graduate education programs.

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