# Who owns the copyright? It depends.

The question of who owns the copyright towork created for scholastic media is a complex question. Different approaches exist to this question many advisers have asked in the last year. One thing is clear: students are not employees and the works they create are not "works for hire."

## Resources:

- **Principals, advisers and students face misconceptions about who 'owns' student work**
  http://www.splc.org/news/report_detail.asp?id=1584edition=54

- **Back to school checklist: who owns what?**
  http://www.splc.org/wordpress/?cat=13

- **Copyright and fair use (splc)**
  http://ww.splc.org/presentations/kyr-copyright.pdf

- **Guide to copyright law**
  http://www.splc.org/knowyourrights/legalresearch.asp?id=32

- **Copyright law / PowerPoint**
  www.splc.org/presentations/ppcopyrightlaw.pps

- **Copyright and fair use**
  http://www.splc.org/presentations/kyr-copyright.pdf

JEA Scholastic Press Rights Commission

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Mark Goodman, former executive director of the Student Press Law Center and current Knight Chair of Scholastic Journalism at Kent State University, said it is almost impossible for a school to claim copyright in the works students create.

"Absent a written assignment of rights signed by both student and parent (if the student is a minor)," Goodman wrote to the JEA listserv in 2010.

That's not because public schools can't own copyright, he said, but it's because students are not employees and the works they create are not "works for hire." The fact they may be getting credit for a class does not change that.

In addition, there are real down sides to a school owning the copyright to student works, Goodman said. For example, if a school owns it, it can control how it is used. That inherently includes unlimited censorship rights.

"If I were advising a student publication about dealing with its copyright ownership issues from this point forward," Goodman said, "I would say the best tactic is to have every staff member (and a parent/guardian if they are a minor) sign something at the beginning of the year that says they are assigning the copyright in the works they submit to that publication."

He said it is possible for an student publication to own a copyright — that doesn't make it belong to the school.

"Then insert in your publication handbook or policy document a statement that says your student publication staff has authority over the copyrights owned by the publication," Goodman added. "If someone ever uses your publication's contents without permission in violation of the copyright, you'll have clear authority for asking them to stop."

As to publications already distributed that others are using without permission, Goodman said he would recommend advisers and students act as if the publication itself owns the copyright, whether there is written documentation or not. A letter to the infringer requesting that he or she take the material down immediately would not be inappropriate.

Goodman developed a model statement of who owns student works that can be accessed as the first attachment to this work.

Goodman also said the SPLC's Mike Hiestand wrote an excellent piece on copyright ownership on the SPLC blog at http://www.splc.org/wordpress/?p=1134 .