February 10, 2000

NATIONAL
ASSOCIATION OF
INDEPENDENT
SCHOOLS

1620 L STREET, NW
WASHINGTON, D.C. 20036-5605
TELEPHONE (202) 973-9700
FAX (202) 973-9790

David O. Carson
General Counsel
Copyright Office, LM-403
James Madison Memorial Building
101 Independence Avenue, SE
Washington, DC 20540

Dear Mr. Carson:

I am pleased to respond to the Copyright Office's notice of inquiry dated November 24, 1999, asking whether the Office should recommend that the Librarian of Congress establish an exemption to the anticircumvention measure contained in Section 1201(a) of the Digital Millennium Copyright Act. The National Association of Independent Schools ("NAIS") is a voluntary membership organization of over 1,100 private, independent, elementary and secondary schools and associations in the United States and abroad, and is the national institutional advocate for independent precollegiate education. NAIS represents approximately 473,000 students, 48,000 teachers and instruction support personnel, and 10,000 administrators.

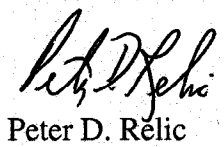
On behalf or our members, I strongly urge the Librarian to issue a broad exemption from the Section 1201(a) restrictions so students and educators can continue to make reasonable use of portions of copyrighted materials for educational purposes. This "fair use" exemption would maintain the balance, established in the Copyright Act of 1976, between the rights of information providers to protect commercial products and the needs of information users to access material for educational uses. Without such an exemption, the school community could be severely restricted in the way they use digital materials. Educators using computers or other digital technologies to share information for distance learning purposes, the way closed-circuit TV is today, could be liable for circumvention under Section 1201(a). Students surfing the information superhighway may find it has become a toll-road.

However, even with a broad exemption, producers of copyrighted materials would still be protected under Section 1201(a) from the real concern of piracy, because the exemption would only cover currently accepted "fair use" practices for digital materials.

Pay-per-view arrangements and licensing agreements are not a substitute for a "fair use" exemption nor an option for schools whose budgets are already stretched thin. Those approaches also represent a dramatic departure from historically established rights and exemptions under current copyright law.

Copyright law in the 21st century should enhance the ability of schools to lawfully access information for appropriate education purposes, not create barriers that will discourage the use of new technologies in the classroom. I ask you to maintain the current balance in copyright law by recommending the establishment of a "fair use" exemption for digital materials in the classroom.

Sincerely yours,



Peter D. Relic
President