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Is A Dance Routine Learned In A Child's Dance Class Protected By Copyright Law?

[Kristie Prinz](#)**Q.**

If I pay for dance lessons and my child learns a routine through the lessons, is that routine protected by copyright law? Does my child have to obtain the dance teacher's permission to perform the routine, or is it knowledge that my child simply has? The teacher wants us to pay hundreds of dollars for the child to independently perform the routine at nursing homes and other public venues. The child would not receive any compensation for her performance.

-- *Anonymous*

A.

Based on the facts that you have provided in your question, it is unclear whether or not your child's teacher would be entitled to royalties each time your child performs her dance routine.

Copyright law protects original works of authorship fixed in a tangible form of expression. Copyrightable works include the following:->L>

- literary works;
- musical works, including any accompanying words;
- dramatic works, including any accompanying music;
- pantomimes and choreographic works;
- pictorial, graphic, and sculptural works;
- motion pictures and other audiovisual works;
- sound recordings; and
- architectural works.

Since a dance routine constitutes a choreographic work, such a routine can be copyrightable. However, it is unclear in the case at hand if your daughter's routine qualifies for copyright protection, since we have no

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information as to whether or not it has actually been fixed in a tangible form of expression such as a writing or other notation.

Assuming that your daughter's dance teacher did fix the routine in a tangible form of expression, then as a general rule, your daughter would not be able to perform the routine without authorization from the teacher, which would likely be provided only through a license agreement, which could include a royalty fee.

Having said this, the doctrine of fair use provides an exception to the general rule, which could apply in this case. Section 107 of the Copyright Act states as follows:

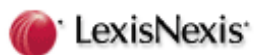
[T]he fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.

Under the current set of facts, it is unclear based on what you have shared as to whether or not your daughter's performance of a dance routine, would constitute a fair use of the routine, but the fact she is not going to be paid for her dancing and the fact she is just a child certainly are facts in her favor. Any legal action on this issue would basically be a fact determination, so it is unlikely that you will have a clear and absolute answer as to whether or not this constitutes infringement if she dances the routines without the teacher's permission.

My advice would be to consult with a copyright attorney in your jurisdiction regarding the specific facts of your situation, including whether or not this routine is even eligible for copyright protection. Perhaps when the attorney goes over the facts in more detail with you, he or she may be able to provide more clarity on your situation. Also, such an attorney should be able to give you specific advice on actions you can take in your situation to limit the likelihood of legal problems arising down the road.

-- *Kristie Prinz*



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