Fair Use in the Classroom

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Copyright Defined and Explained

• “Original works of authorship fixed in any tangible medium of expression”
  o Print – articles, books, newspapers, sheet music
  o Non Print – software, movies, photos, sculpture
  o Internet – blogs, podcasts, web pages
• Bundle of Rights – reproduce, copy, distribute, publicly perform, create derivatives, publicly display
• Exceptions
  o Public Domain – works of federal government; pre-1923 works; the Internet is not Public Domain!
  o Non-Copyrightable Works – facts, ideas
  o Performance or Display in Teaching (Classroom and Online)
    • Face to Face Teaching – display or perform works
    • Online Teaching – limitations; reasonable and limited portions of AV works – TEACH Act (not practical to use)
  o Fair Use
What is Fair Use?

- Exemption from the exclusive rights of a copyright holder
- Educational Use ≠ Fair Use…but…

Educational Use Tips Balance in Favor of Fair Use

Fair Use Checklist
http://ufdc.ufl.edu/IR00003647/00001

Four Factors of Fair Use

Purpose and Character of the Use

Nature of the Work

Amount of Work Used

Effect on the Market

No single factor is determinative – rather, the factors in aggregate should weigh toward fairness
Purpose and Character of the Use

Nature of the Work

Exclusive Rights

Fair Use

Educational

Transformative

Commercial

Artistic or creative

Technical

Factual
Amount of Work Used

Exclusive Rights

Fair Use

Small Quantity

Essential to course

Not supplemental

Large quantity

“Heart of the Matter”

Effect on the Market

Exclusive Rights

Fair Use

No viable market

Orphan work

Ready market
Using Copyrighted Works: Print

**In Class**
- May photocopy reasonable quantities of print works for distribution in class – guidelines are NOT the law
- May include quotes in lecture slides
- Use freely – public domain, open access, creative commons

**Online**
- Use a link to the work whenever possible
  - URLs not copyrighted
  - License/contract restrictions
- If posting copies of a work, must restrict to students in course and remove at end of the course
- Use freely – public domain, open access, creative commons

Using Copyrighted Works: Non Print

**In Class**
- May perform or display entire works in a face to face teaching setting.
  - “Home Use Only”
  - Do not burn copies for students!
- May embed short clips into lecture slides
- Be wary of YouTube (or any potentially illegal copy)
- Consider open works and public domain works

**Online**
- Only reasonable and limited portions of dramatic works (e.g., movies) may be digitized and streamed – must be on secure site, limited to students in course
- Link to free, legal streaming content or encourage students to make use of legal streaming services
Using Copyrighted Works: Internet

**In Class**
- Content found online is also protected by copyright – evaluate same as any other print or non-print work
- Be wary of copying images or video – are the originals legal copies?
- Utilize creative commons or public domain works

**Online**
- Can always share links
- Be wary of infringing content – don’t copy what is already illegal
- Utilize creative commons or public domain works

**Additional Considerations**
- Using Student Created works – students own copyright in their works and must secure their permission before reusing or posting online
- Instructional materials – UF may have a property interest in these
  - Under Section C.2 of the Policy, “University supported works” are property of the University.
    - Section C.1.g defines “university support” as the use of University funds, personnel, facilities, equipment, materials, or technological information, and includes such support provided by other public or private organizations when it is arranged, administered, or controlled by the University.
    - Development of online courses utilizes many University resources included within definition of “University support”
    - Thus, copyright in online courses held by University
Questions?

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• Resources:
  o Website: http://guides.uflib.ufl.edu/copyright
  o Twitter: campuscopyright & UFScholComm
  o Blog: http://campuscopyright.wordpress.com