

NYIT Copyright Policy

The NYIT copyright policy provides information to help faculty, librarians, administrators, staff and students to learn and apply copyright principles to their work.

Copyright is a form of legal protection for authors of intellectual products including books, journals, photographs, art, music, sound recordings, computer programs, motion pictures, websites, and many other materials.

Section 106 of the Copyright Act (90 Stat 2541) gives the owner of copyright the *exclusive* right to do and to authorize others to do:

- Reproduction
- Derivative works
- Distribution by sale, rental, lease or lending
- Public performance and display of their works

An original work does not need a “copyright notice” and does not have to be registered with the U.S. Copyright Office in order to have copyright protection. Works in the public domain, like most U.S. federal government documents, do not have copyright protection. Copyrights do expire, but current copyright protection lasts through the life of the author, plus seventy years. For more information on copyright expirations see the web page by Lolly Gasaway, “When U.S. Works Pass into the Public Domain.” (<http://www.unc.edu/~unclng/public-d.htm>); and “Copyright Duration Chart” by Peter Hirtle (http://www.copyright.cornell.edu/public_domain/)

Additional information can be obtained from the U.S. Copyright Office, Copyright Law of the United States (www.copyright.gov/title17/index.html).

Fair Use

The *exclusive* rights of authors are subject to fair use guidelines. Section 107 of the Copyright Act of 1976 and the TEACH Act (Technology, Education, and Copyright Harmonization Act) of 2002 provide for the copying of print and digital items for educational purposes if the copying meets fair use.

When do we need to consider fair use?

- Uploading/posting materials to Blackboard or other server.
- Clipping and copying materials into teaching tools.
- Sharing articles and other materials with colleagues and the community.

- Developing digital libraries.
- Storing copies for preservation programs.
- Placing copies on library reserve.

Fair Use Guidelines:

- Purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes.
- Nature of the copyrighted work.
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
- The effect of the use upon the potential market for or value of the copyrighted work.

In order to assist you in determining if your use of copyrighted materials falls under fair use guidelines, please see the *Fair Use Checklist* (<http://iris.nyit.edu/library/FairUseChecklist.pdf>)

Resources for Copyright Permissions

If you determine that your use of an item does not fall within fair use guidelines, you can obtain copyright permission via these suggested resources:

- Copyright Clearance Center www.copyright.com
- Association of American Publishers website
http://www.publishers.org/main/Copyright/copyPermission_01.htm?id=20
- Association of American University Presses www.aaupnet.org/membership/directory.html
- Authors Registry <http://www.authorsregistry.org/>
- iCopyright (<http://info.icopyright.com/index.asp>) Content and permissions for thousands of online publications.
- For still images use Frank Niemeir's list of Stock Agencies.
<http://www.mindspring.com/%7Efrankn/photo/stock.html>
- Motion Picture Licensing Corporation (<http://www.mplc.org/>)
- For multiple copies of a journal article, check the NYIT Journal Locator (<http://ns2fr9hr7j.search.serialssolutions.com/>). The article might be available online in one of the library's databases, and then a **link to the article** can be posted.

Digital Millennium Copyright Act (DMCA), 1998

The Digital Millennium Copyright Act, passed into law on Oct. 28, 1998, contains several provisions that apply to universities and digital materials. One section that applies to higher education institutions limits the liability for infringement for Online Service Providers (OSPs). Under the broad language of the DMCA, colleges and universities can be considered online

service providers. According to the law, colleges and universities can protect themselves from liability for copyright infringement by:

- Registering with the U.S. Copyright Office
- Assigning an agent to receive notification of claims of copyright infringement
- Developing procedures for handling complaints of copyright infringement
- Developing procedures for terminating accounts of repeat infringers
- Posting policies on the institutional web site
- Providing an educational program for the campus community on copyright law and copyright compliance.

Another section of the DMCA pertains to the circumvention of technological protection measures (TPMs) for unauthorized access to and unauthorized copying of copyrighted materials. The DMCA prohibits the making or selling of technological devices or services that can circumvent copyright protections. For libraries, archives, museums and education institutions, the DMCA does make exceptions for fair use and allows for access when trialing a resource for consideration for purchase.

Footnotes:

Lide, Casey. "What Colleges and Universities Need to Know About the Digital Millennium Copyright Act." CAUSE/EFFECT 22:1 (1999) 4 Aug. 2009 <<http://net.educause.edu/ir/library/html/cem/cem99/cem9913.html>>

TEACH ACT (Technology, Education, and Copyright Harmonization Act, 2002)

The TEACH Act applies to distance education and to accredited non-profit institutions. The act requires an institutional copyright policy along with dissemination of copyright information to students and others affiliated with the institution. According to provisions in the TEACH Act, institutions need to use technology to limit accessibility to enrolled students and to prevent downloading or sharing of copyrighted materials. The TEACH Act does recognize that students should be able to access the digital content wherever they have access to a computer.

The TEACH Act expands the works that can be performed in a distance education classroom to include reasonable and limited portions of dramatic literary and musical works, with the exception of works produced for the education market. The portion of material used in distance education has to be the same portion that is used in a classroom setting. The TEACH Act is worded to allow for educational use as opposed to use for entertainment purposes. Copyrighted materials may be stored on a server to permit asynchronous performance. Faculty need to make sure that digital formats do not exceed the limits on the portion and types of materials permitted by the TEACH Act and that commercially available digital versions are not already procurable.

Fair use continues to apply to the scanning, uploading, and transmission of copyrighted materials for distance education, even after enactment of the TEACH Act.

Footnotes:

Crews, Kenneth. "New Copyright Law for Distance Education: The Meaning and Importance of the TEACH Act." Distance Education and the TEACH Act, American Library Association. 29 July 2009
[http://www.ala.org/Template.cfm?Section=Distance Education and the TEACH Act&Template=/ContentManagement/ContentDisplay.cfm&ContentID=25939](http://www.ala.org/Template.cfm?Section=Distance_Education_and_the_TEACH_Act&Template=/ContentManagement/ContentDisplay.cfm&ContentID=25939)

Gasaway, Laura "Balancing Copyright Concerns; TEACH Act of 2001." *Educause Review* 36.6 (Nov/Dec 2001): 82-83. 29 July 2009 < <http://www.arl.org/pp/ppcopyright/copystatutes/teach.shtml> or <http://net.educause.edu/ir/library/pdf/ERM01610.pdf>

Suggested Use of Materials for Distance Education & Blackboard

In summary, if instructors and/or institutions wish to take advantage of the opportunities provided by the TEACH Act for using copyrighted materials, they must reasonably:

1. Inform instructors, students, and staff of copyright laws and policies
2. Incorporate performance of others' works sparingly or only if a faculty member or the institution possesses a legal copy of the work (i.e. by purchase, license, fair use, interlibrary loan, etc.)
3. List appropriate citations and attributions to the source
4. Include a copyright notice (e.g., The materials on this course web site are copyrighted and intended for use only by students enrolled in this course for purposes associated with this course, and they may not be retained or further disseminated.) Other Sample statements: (<http://www.villanova.edu/generalcounsel/copyright/notice.htm> (Villanova University, Sample Copyright Notice); or http://www.med.fsu.edu/education/FacultyDevelopment/PDF/Bb_Instructions%20for%20Posting%20a%20Copyright%20Notice%20for%20Blackboard%20Courses_v2.pdf (Florida State University, Instructions for Posting a Copyright Notice for Blackboard Courses))
5. Limit access only to students enrolled in the class and terminate access at the end of the semester
6. Prevent further copying or redistribution of copyrighted works
7. Avoid interfering with copy protection mechanisms
8. Obtain permission for materials that will be used repeatedly by the same instructor for the same class
9. Avoid digitizing an entire literary or musical dramatic work
10. Use the same amount of performances of any works that you would use in a face-to-face classroom (i.e., video clips, prose excerpts)

Footnotes:

“TEACH Act Best Practices Using Blackboard.” American Library Association. 3 Aug. 2009.

<http://www.ala.org/ala/aboutala/offices/wo/woissues/copyrightb/federallegislation/distanced/teachactbest.cfm>

Dolak, F.J. “What is TEACH Act.” Ball State University Intellectual Property Office, 3 Aug. 2009

<<http://www.bsu.edu/library/collections/copyright/complying/>>

Additional Resources on Copyright and the TEACH Act:

TEACH Act Vocabulary: <http://www.provost.ncsu.edu/copyright/resources/vocabulary.php#mediated>

Columbia University, Copyright Advisory Office: <http://copyright.columbia.edu>

Ball State University, Copyright & Intellectual Property Office

<http://www.bsu.edu/library/collections/copyright/complying/>

American Library Association, Copyright in the Digital Age

<http://www.ala.org/ala/aboutala/offices/wo/woissues/copyrightb/copyright.cfm>

Besek, June M. “Copyright: What Makes a Use “Fair”?” *Educause Review* 36.6 (Nov/Dec 2003): 12-13. 3 Aug. 2009

<http://www.educause.edu/EDUCAUSE+Review/EDUCAUSEReviewMagazineVolume38/CopyrightWhatMakesaUseFair/157873>

Higher Education Opportunity Act (HEOA), 2008

Signed into law on Aug. 14, 2008, the Higher Education Opportunity Act addresses the steps institutions of higher education need to take to prevent the unauthorized distribution, downloading, or peer-to-peer sharing of copyrighted materials. These materials can include music, games, computer software, and videos. The HEOA addresses the concerns expressed by the music and movie industries that the downloading and sharing of copyrighted digital works is especially prevalent among college students and is taking place through college networks.

In addition to annual policy notifications directed towards students, colleges are expected to use technological means, such as network traffic monitoring and identification of the largest bandwidth users, to deter downloading or sharing of copyrighted intellectual property. The law also requires that, to the extent practicable, colleges and universities will offer alternatives to illegal sharing of copyrighted materials.

Footnote:

“EDUCAUSE Comments on file Sharing Provisions in the HEA” 4 Aug. 2009

<http://www.pdfdownload.org/pdf2html/pdf2html.php?url=http%3A%2F%2Fnet.educause.edu%2Ffir%2Flibrary%2Fpdf%2Fepo0813.pdf&images=yes>

List of free music and video resources:**Music:**

AOL Radio: music.aol.com/radioguide/bb

Live 365: www.live365.com

LastFM: www.last.fm

NAXOS: <http://nyit.naxosmusiclibrary.com.arktos.nyit.edu/>

Pandora Radio: www.pandora.com

Radio-Locator: www.radio-locator.com

RadioTower: www.radiotower.com

SHOUTcast: www.shoutcast.com

Yahoo! Music: new.music.yahoo.com

Free Video, TV, and Movies:

ABC: abc.go.com

CBS: www.cbs.com

Fox: www.fox.com

NBC: www.nbc.com

YouTube: www.youtube.com

Hulu: www.hulu.com

Joost: www.joost.com

Sling: www.sling.com

Veoh: www.veoh.com