OM 9.2.2 - Copyrighted Works Acceptable Use

Scope
All Clarkson University units and employees.

Reason for Policy
This policy is designed to outline the acceptable uses of copyrighted materials within the context of an educational setting. It outlines the types of copyrighted materials that may be used as part of a course and the requirements for distributing or displaying them for students.

Policy Statement
The Technology, Education and Copyright Harmonization (TEACH) Act sets very clear requirements for using copyrighted works in the educational setting. According to this body of law, it is permissible to transmit performances or displays of copyrighted works so long as all of the following conditions are met:

1. The copyrighted material must be used as part of an academic course
2. The copyrighted material must be:
   a. A performance of nondramatic literary works or
   b. A performance of nondramatic musical works or
   c. A performance of reasonable portions of any other work or
   d. In an amount comparable to that typically displayed in a live classroom setting.
3. The copyrighted material must NOT be:
   a. Digital educational works (works produced or marketed primarily for performance/display as part of mediated instructional activities transmitted via digital networks) or
   b. Unlawful copies (copies you know or reasonably should know were not lawfully made or acquired)
4. The copyrighted material must be transmitted:
   a. At the direction of or under the actual supervision of an instructor and
   b. As an integral part of a class session and
   c. As part of mediated instructional activities and
   d. Directly related and of material assistance to the teaching content.
5. Transmission must be made solely for and reception limited to students enrolled in the course.
6. No interference with the copyright holder's technological measures that prevent such retention and dissemination

Additionally, it is permissible to convert from analog to digital only when no digital version is available to the institution or the available digital version is technologically protected to prevent uses allowed by the TEACH act.

Procedures
Definitions

Nondramatic – The Copyright Act does not define 'nondramatic' or, for that matter, 'dramatic'. According to the U.S. Copyright Office, a dramatic work is "a written or literary work invented and set in order in which the narrative is not related but is represented by dialogue and action." It is "a work in which the narrative is told by dialogue and action, and the characters go through a series of events which tell a connected story..." Fundamentally there seem to be but two essential elements for a dramatic composition: (1) that it relate a story, and (2) that it provide directions whereby a substantial portion of the story may be visually or audibly represented to an audience as actually occurring, rather than merely being narrated or described." Thus, performances of a nondramatic literary work would include readings from textbooks, novels, and poetry. Dramatic works would be exemplified by stage plays.

Reasonable portion – In determining what is reasonable and limited one should take into account both the nature of the market for that type of work and the pedagogical purposes of the performance. For displays of works, the amount allowed in TEACH is the amount that would have been used in a live classroom setting.

Display – To display a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture of other audiovisual work, to show individual images non-sequentially.

Lawfully Made – Lawfully made includes not only materials made with the permission or under the authority of the copyright holder, but also those made under the authority of the copyright act, such as "fair use" copies.

Class Session – A class session is generally that period during which a student is logged on to the server of the institution making the display or performance. It is likely to vary with the needs of the student and with the design of the particular course. A particular class session cannot last for the entire semester, but the materials can remain on the institution's server for the duration its use in one or more courses. The materials may be accessed by a student each time the student logs on to participate in the particular class session of the course in which the display or performance is made.

Additional Contacts

History

Related Information

The following are guidelines and are not intended to be construed as legal advice. The full text of the TEACH Act can be found at the Library of Congress.