

BLACKBOARD AND COPYRIGHT

Faculty Meeting

Nov. 4, 2008

S. Yaegle

| | |
|---|--|
| Web site containing copyrighted material | It is okay to hyperlink to the article |
| Copyrighted image from a website | The image should only be used without permission for one semester. |
| Full-Text Article from Library Database | Link to the article. See directions at http://www.regent.edu/general/library/research_tools/persistent_links/home.cfm |
| Article not in full-text | Consider using e-Reserves. |
| Scanned personal picture | Put up anywhere in BB |
| Scanned copyrighted image | Use in Bb for ONE semester. |
| Scanned chapter from a book | Use in Bb for ONE semester. |
| Audio Files | If it meets other fair use and TEACH guidelines, put up in BB for limited time (10 days). |
| Video Files | If it meets other fair use and TEACH guidelines, put up in BB for limited time (10 days) |

See the Blackboard Tip Sheet at http://www.ccsj.edu/blackboard/BB%20Copyright_Fair_Use.pdf

What are the limitations to copyright?

[Title 17 of the U.S. Code](#) provides for certain rights to use copyrighted works, including the following:

- [Section 107](#). Fair Use
- [Section 108](#). Reproduction by libraries and archives
- [Section 110 \(1\) and \(2\)](#). Exemption of certain performances and displays
- [Section 117](#). Computer programs
- [Section 121](#). Reproduction for blind or other people with disabilities

How do I obtain copyright protection for my literary or creative work?

Registering a work with the Copyright Office does have some benefits. It informs the public that the work is protected by copyright, identifies the copyright owner, and sets the date of first publication. In the event of infringement, the infringer will not be able to use the defense of innocent infringement, which may relieve him of actual or statutory damages.

The [U.S. Copyright Office](#) provides forms on their website to register works. The copyright owner may use the copyright notice without advance permission from or registration with the Copyright Office.

Fair Use

What is fair use?

Fair use is a limitation of copyright under [Section 107](#) of the Copyright Law that allows reproduction of copyrighted works for the purpose of criticism, comment, news reporting, teaching, scholarship, or research.

What determines fair use?

The factors contributing to fair use must be considered individually and then weighed against one another to determine fair use. When deciding whether use of material qualifies for fair use, consider the following:

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. ([Sec. 107](#))

Commercial use of a work weighs against fair use. If the purpose of copying is for criticism, news reporting, comment, teaching, research or scholarship, this weighs in favor of fair use. If access is limited to classroom or password protected, it weighs toward fair use. The law does not give specific guidelines. The less that is copied the heavier will be the weight given to fair use. If copying the work has an adverse effect on the market, this will weigh against fair use. If an original work could have been purchased, this will weigh against fair use.

What about photocopying?

These [Classroom Guidelines on Photocopying](#) are generally accepted for classroom copying in not-for-profit educational institutions with respect to books and periodicals. These guidelines state the minimum and not the maximum standards of educational fair use.

What about posting materials in Blackboard?

While Blackboard can limit access to course content, it does not absolve instructors or students from first obtaining permission to post copyrighted materials. In general, if you need to obtain permission to use the content in paper format, you probably need permission to use it in electronic format as well. The [TEACH Act](#) has expanded the scope of fair use for the performance and display of copyright-protected materials in a distance education environment, including Blackboard.

Instructors are strongly encouraged to use persistent hyperlinks to e-books or journal articles within library databases, which avoids copyright infringement. Please [ask a librarian](#) for assistance in building persistent hyperlinks to online resources.

What about using videos or movies in class?

[Section 110 \(1\)](#) of the Copyright Law enables teachers to perform or display a video or movie without a public performance license, so long as the use is 1) in a classroom or similar instruction space, 2) the use is part of a regularly scheduled course, and 3) the use must be exclusively by the instructor and the students in the classroom, in the course of face-to-face teaching activities.

If fair use criteria do not apply, how do I obtain permission to use copyrighted materials?

Permission to use copyrighted materials must be obtained if the criteria for fair use cannot be met. Permission must be obtained from the copyright holder.

The Copyright Office offers [Circular 22: How to Investigate the Copyright Status of a Work](#) to assist copyright research. The [Copyright Clearance Center](#) provides an extensive database and quick turnaround time for copyright permissions for photocopies, electronic postings, and republications.