The Yes, No and Maybe of Copyright

How to keep within the Copyright Laws and Guidelines and still teach your class.
Disclaimer: I am not a lawyer.

- This presentation is an overview of the policies and guidelines for keeping within the current Copyright Act.

- Specific issues can be addressed on a case by case basis and in conjunction with Adam Thrasher, our University’s Institutional Risk Manager.

- Please reach out before posting material or links to Moodle to be sure you are adhering to copyright guidelines.

- **The Instructor is responsible for making sure copyright is respected on all materials used in the class.**
Rights of the Copyright Holder

Includes:

- Reproduction/copies/reprints
- Adaptation
- Distribution
- Public Performance
- Public Display
- Digital Transmissions of Sound Recordings

Remember: Copyright Law protects you and your research too!

- Be sure to check the Faculty Handbook about Work-for-Hire issues.
Copyright Laws and Guidelines

- The Law: Title 17, United States Code, Public Law 94-553, 90 Stat. 2541, as amended
- T.E.A.C.H. Act (Technology, Education, and Copyright Harmonization)
- D.M.C.A. (Digital Millennium Copyright Act)
- Fair Use Guidelines (CONFU – Conference on Fair Use)
- Creative Commons
- Public Domain and Open Electronic Resources (OER)

There is a difference between Copyright Law and Contract Law and we may not violate either.
Copyright Guidelines

- Yes, you may...
  - Provide permanent URL links (permalink) to articles and eResources found in our Regis databases
  - Put materials on reserve at the Library that the Library owns
  - Request the Library purchase materials that are then put on reserve in the Library
  - Ask a Librarian to help you find similar materials that are in the Regis databases
  - Request permission from the copyright owner to use the material
    - Keep all correspondence related to this action in case of questions down the road
Yes, you may…

- Post a newspaper article if:
  - The information/issue is current, and
  - The article is removed at the end of the semester, and
  - You include a copyright notice that the article should not be printed and/or shared beyond the class. (TEACH Act)
Maybe yes …
- Put a personal copy of material on reserve if you are asking students to read a portion of the work and IF you are planning to use the material for one course and it is removed from reserve at the end of the semester

And maybe no…
- Put a personal copy of a textbook required for the course on reserve semester after semester if it is not required to be purchased
No, you may not . . .

- Post an article you requested through ILL (Interlibrary Loan) to Moodle. You will need to get permission for use.
- Ask all your students to request the same article through ILL. Copyright guidelines spell out how many times an article may be requested before the Library must pay or subscribe to a journal.

Remember to consult the research guide Faculty Guide to the Regis Library (http://libguides.regiscollege.edu/faculty) for additional information and a template for requesting permission to use a resource.
Copyright and Plagiarism

Copyright is to Faculty, as Plagiarism is to Students

- Common refrains heard are:
  - Everyone in the room has violated copyright law/ All students plagiarize some work so it’s OK
  - I’ll never get caught/ I’ll never get caught
  - We don’t have enough money to buy everything, and after all, we are in EDUCATION/ I don’t have enough money or time, and after all, I AM a student.
  - I can’t find out who owns the copyright so it’s OK to use it/ I lost the citation, I’ll just change a few words and we are all good
What is Fair Use?

Consider these 4 factors when thinking about Fair Use:

1. Purpose and character of the use. Why are you using this work? Is this use commercial or non-profit or an educational use?
   - Commercial – usually No unless you have permission
   - Non-Profit – maybe YES, check for copyright statement or creative commons status
   - Educational – maybe YES, check for copyright statement or creative commons status

2. Nature of the copyrighted work. Is it fiction, non-fiction, published, unpublished?
   - Works most likely to be OK are published non-fiction works
What is Fair Use? (cont’d)

3. Amount and substantiality of the portion used in relation to the copyrighted work. Ask how much do I need to borrow and is this the heart of the work?

- Guidelines under the Copyright Guidelines for Educational Multimedia originally developed during CONFU (Conference on Fair Use) are just that- guidelines. However, they are an excellent starting point for informing your use of copyrighted materials.
  - Motion Media – 10% or three minutes
  - Text – 10% or 1,000 words
  - Music, Lyrics, Music Videos – up to 10% or 30 seconds, etc…
  - However, using less is always preferable.

4. Effect of the use upon the potential market for or value of the copyrighted work

- Will my copying this item mean that the copyright holder will make less money?
What is the TEACH Act?

Technology, Education, and Copyright Harmonization (TEACH) Act was enacted primarily to balance the needs of distance learners and educators with the rights of copyright holders.

Requirements include:
- Be a non-profit educational institution
- Use is part of mediated instructional activities
- Use must be limited to a specific number of students in a specific class
- Must be used in either “live” or asynchronous sessions
- Must have developed and publicized copyright policies and include specific copyright instructions to students
- Must institute technological measures to ensure compliance beyond merely assigning passwords. Work with ITS if you have any questions or concerns regarding access
What the TEACH Act does NOT allow…

The new exemptions under the TEACH Act specifically do not extend to:

- Transmission of textbook materials, or materials usually purchased or acquired by students without permission
- Electronic reserves or coursepacks (electronic or paper) or Interlibrary Loan without permission
- Commercial Document Delivery without permission
- Textbooks or other digital content provided under license without permission
- Conversion of material from analog to digital formats without permission

The TEACH Act does not supersede fair use or existing digital license agreements.
What is the DMCA?

- The Digital Millennium Copyright Act of 1988 brings the United States into compliance with WIPO (World Intellectual Property Organization) for the use of digitized sources, communication technologies and copyright.

- Two basic tenets are:
  - May not circumvent technological measure to protect materials
  - May not tamper with the copyright management information

- Both civil remedies and criminal penalties are attached to these acts
Ways to keep within Copyright Laws and Guidelines

- Make sure all material is lawfully obtained
- Include copyright notices instructing students not to copy or distribute materials.
- Limit access to the material to students registered for the course via a secure system (e.g. Moodle).
Ways to keep within Copyright Laws and Guidelines (cont’d)

- Terminate access at the end of the course
- Use as little of a copyrighted work as needed
  - Be familiar with Fair Use Guidelines or ask a Librarian, our Risk Manager or our Instructional Design Team
- Obtain permission for use
  - Not always difficult or expensive
Obtaining Permission

- Permission Requests:
  - Identify what it is that you want to use
    - Book, video, chapter, excerpt, music etc…
  - Determine what kind of permission you are asking for:
    - how much of the work
    - how will you use it
    - how many times
    - how long you plan to use it
  - To avoid conflict, start the permission process early and document all interactions concerning the request. Sample permission request letters are available.
What is Public Domain?

- Refers to creative materials that are not protected by intellectual property laws such as copyright, trademark, or patent laws.

- As a general rule, most works enter the Public Domain because of old age.

- Any work published in the United States before 1923 or published before 1968 for which copyright was not renewed are in the Public Domain.
  - The wrinkle in “public domain” is: while each part of a work belongs to the public, collections of public domain material may be copyrighted by the author who pulls those items together to create a new work.
What is Creative Commons?

- Creative Commons is a nonprofit organization that has developed a number of standardized copyright licenses that can be applied to works that can then be shared, used, adapted, re-worked, etc. without infringement of copyright.

- As Creative Commons states, their licenses define “the spectrum of possibilities between full copyright and the public domain. From all rights reserved to no rights reserved. Our licenses help you keep your copyright while allowing certain uses of your work – a ‘some rights reserved’ copyright.” (Creative Commons, 1.)

- Check out www.creativecommons.org for more information and how to take your own work into the Creative Commons world.
Open Educational Resources can be:
- Copied and distributed
- Used in a wide range of ways
- Combined to make something new
- Shared with others
Great places to look for OERs include:

- OER Commons: https://www.oercommons.org
- OpenStax: https://openstax.org
- MERLOT II: https://www.merlot.org
- Internet Archive: www.archive.org
- Creative Commons Search: http://search.creativecommons.org
- And the best resource of all: Librarians

(The list above is from Lance Eaton, former Instructional Designer at Regis College.)
Library Resources - start with our Research Guides

Welcome to the Regis Library

PowerSearch  Databases  Books  Research Guides

Search almost everything

What is PowerSearch?

Library Services  Journal Titles  RefWorks  Contact Us
Welcome to the Regis Library Guide for Faculty. Regis Library provides many resources and services. In addition to a large collection of books, ebooks, and databases, we provide library instruction, Research Guides, course reserves, citation management software, interlibrary loan, and one-on-one research consultation. Please feel free to contact us.

Librarian

Carolyn Sager
Email Me

Contact:
781-768-7304
Regis Copyright Policy

The policy can be found in the “Faculty Research Guide” and also under “Library Services”. The policy is in two parts. The first concerns the basics of copyright law and the second contains specific examples that may come up here at Regis.

Remember you are not alone! We are happy to work through any copyright issues.
What should you do if you receive a “takedown” notice?

- Start by responding in the positive and remove the requested material.
- Notify Adam Thrasher, Institutional Risk Manager of the request and your actions.
- If you decide to use the material, work to get copyright permissions through the publisher and use the template in the Faculty Research Guide.
- Be sure to document all your actions, from “take down” to replacement.
- Or, ask for help from the librarians to find alternatives to the information. We have lots of sources.
References


- Creative Commons (n.d.). About. Retrieved from https://creativecommons.org/about/