“Fair Use” and Copyright at the Columbus State Library

Introduction

Making use of other people’s original works for classroom handouts can raise questions of fair use. The most common issues surround the copying of articles from journals or excerpts from books. The following information will help faculty and students evaluate “fair use” and other means for properly using copyrighted works in the classroom setting.

Current copyright law gives legal protection to nearly all text, images, audiovisual recordings, and other course materials that instructors or students might desire to use in the classroom, even if the original works do not include any statement about copyright.

Materials may be copied only if:

1. The instructor is the copyright owner of the material, or
2. The copyright owner of the material grants permission, or
3. The material is in the public domain, or
4. The use of the material is a “fair use” under the law, or
5. The material falls within another statutory exception.

How Does Fair Use Apply to the Classroom Activities?

Fair use is a legal doctrine that allows the public to make limited uses of copyrighted works without permission. Fair use may not be what you expect. Therefore, do not assume that a nonprofit, educational use or giving credit for the source of the work, or that limiting access to materials to students in the class creates an inherent fair use. Fair use depends on a balancing of four factors, which may be addressed by a variety of means. The four factors are:

1. Purpose of the Use
2. Nature of the Work
3. Amount of the Work Used
4. Effect of the Use on the Market for the Original

Applying Fair Use

The following are general standards suggested by the Educational Resources Center (ERC) of Columbus State to give fair use some practical application. Instructors and others at CSCC should also consider these standards when evaluating whether their activities are within fair use. Listed below with each factor are some suggestions that may be helpful in conducting fair-use analyses. Because each situation will be different, instructors must also consider other possibilities and weigh them in the balance for each fair-use determination. One need not necessarily take every possible precaution and satisfy all four of the statutory factors; hence, some adjusting of the implementation of the following procedure may still keep your activities within the boundaries of permitted use.

To establish the strongest basis for fair use, consider and apply the four factors along the lines of these suggestions:

1. Purpose of the Use
   - Materials should be used in class only for the purpose of serving the needs of specified educational programs.
   - Students should not be charged a fee specifically or directly for the materials.
2. Nature of the Work

• Only those portions of the work relevant to the educational objectives of the course should be used in the classroom.
• The law of fair use applies more narrowly to highly creative works; accordingly, avoid substantial excerpts from novels, short stories, poetry, modern art images, and other such materials.
• Instructors should carefully review uses of “consumable” materials such, as test forms and workbook pages that are meant to be used and repurchased.

3. Amount of the Work

• Materials used in the classroom will generally be limited to brief works or brief excerpts from longer works. Examples: a single chapter from a book, individual articles from a journal, and individual news articles.
• The amount of the work used should be related directly to the educational objectives of the course.

4. Effect of the Use on the Market for the Original

• The instructor should consider whether the photocopying harms the market or sale of the copyrighted material.
• Materials used in the class should include a citation to the original source of publication and a form of a copyright notice.

The Open Educational Resources (OER) Option

Should you be able to find equivalent materials to portions of the content in the textbooks you are now using, such material is free and available to use without obtaining copyright permission. The Library has established a website for OER where under the “Discover OER” tab, or the “Discover OER by Subject” tab, one can search for appropriate OER (http://library.csc.edu/oer/). Should you need assistance in searching, you may contact the Library's OER Librarian, Rachel Dilley (rdilley2@csc.edu).

The Library Database Option

The Library provides access for students and faculty to hundreds of databases consisting of thousands of content items that may also be equivalent in quality and content to your needs. You may contact Brianne Miller (bmille10@csc.edu), Reference Supervisor, who will assign a librarian to search for appropriate materials from our licensed databases.

If You Need the Copyright Holder’s Approval

If you wish to use an entire book or video in your course, you may request permission to do so from the copyright owner. A permission request letter is available from the Library Director Bruce Massis (bmassis@csc.edu) for this purpose.