SOUTHERN WESLEYAN UNIVERSITY

COPYRIGHT POLICY

Prepared by

The Rickman Library

Erin Washington, Assistant Director of Library Services
Robert E. Sears, Director of Library Services
This policy has been developed to provide advice concerning the use of copyrighted material by members of the Southern Wesleyan University academic community. The compilers have been careful to review this information to ensure its accuracy and conformity with U.S. law and generally-accepted practices. This policy is not intended to provide legal advice or services. Southern Wesleyan University disclaims liability for damages resulting from use or non-use of this policy. Anyone needing specific legal advice should seek that advice. This policy is intended to provide guidelines for what is generally considered acceptable use of copyrighted materials. It is not intended to provide legal advice concerning any specific case.
INTRODUCTION

The Rickman Library at Southern Wesleyan University seeks to support faculty and others in the university community in their classrooms, scholarship, and curriculum development by providing guidelines regarding copyright and the application of fair use in the academic environment.

To that end, Rickman Library:

- Provides materials and tools that educate the university community about copyright law and the rights of copyright holders
- Facilitates the use of information, resources, and materials in the classroom
- Assists members of the university community with assessing how to use copyrighted material in the course of university activities relating to teaching and learning.
- Seeks necessary permission for copyrighted materials if the use of said materials does not qualify under the terms of “fair use” (see below).
- Serves faculty as a clearinghouse for evaluation of fair use and other usage of copyrighted materials.
General Copyright Considerations

Copyright owners have the exclusive rights to:

- reproduce a work
- prepare derivative works based on the original
- distribute copies to the public
- perform the work publicly
- display the work publicly

Copyright protection applies to the following:

- Books
- Journals
- Photographs
- Art
- Music
- Sound recordings
- Computer programs
- Websites
- Motion pictures
- Choreography
- Architecture

Currently, any of the above items are automatically protected, whether or not the creator sought copyright protection or not. Items published prior to March 1, 1989 are protected by copyright if they have the © symbol. Items published prior to 1923 are in the public domain and therefore NOT subject to copyright protection.

EXCEPTIONS:

- anything published or produced by the United States Government, including information on websites that end with .gov, may be used freely without securing permission
- Facts, ideas, or themes may not be copyrighted

Copyright Ownership

Copyright ownership rests with the person who created the work. However, in many cases, the rights to a specific work have been transferred to another entity. For instance, a professor who writes an article that is accepted for publication in a journal may not own copyright to the article — the publisher of the journal typically holds copyright for articles. Therefore, if you needed to seek permission to use the article, you would apply to the publisher, not the author.

Additionally, if you create work as an employee for your workplace, then your workplace may own the copyright. The university Intellectual Property Rights policy is included in the Faculty Handbook. For information about intellectual property concerning course or curriculum development, please contact the Center for Transformational Learning.

If an item is under copyright, the individual wishing to use that item must seek permission to use it, unless they can make a case for using it under the auspices of “Fair Use”.

If you can see it, read it, hear it, or watch it, it’s probably protected by copyright law!
**Fair Use**

Section 107 of the U.S. Copyright Act outlines some specific ways in which copyrighted material may be used without requesting permission from the copyright holder. Those factors are:

- the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes
- the 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

These four factors must be considered and weighted against each other. In many cases, it is not always clear whether the use of copyrighted material would qualify as fair use. The librarians of the Rickman Library are available to assist members of the SWU community in determining whether their use of copyrighted material would qualify under the four factors of fair use. Please see the Fair Use Checklist below as a starting place for your assessment.

Instructors are ultimately responsible for taking steps to determine whether the use of copyrighted material would qualify as fair use. However, the Rickman Library will serve as a clearinghouse to assist faculty in the determination of fair use and to maintain records of fair use evaluations. If copyrighted material is being distributed (via photocopy or electronic format), and such material is 1) listed in the course syllabus as a required or supplemental reading; or 2) is being used in multiple semesters; or 3) is part of the course design for an AGS or online course, then the faculty member must submit the Fair Use Checklist for evaluation and approval to the library before distributing such materials.
The TEACH ACT

The Technology, Education and Copyright Harmonization (TEACH) Act of 2002 is an amendment to the Copyright Act of 1976. Its purpose was to help universities apply both copyright law and concepts regarding fair use within their distance education courses, as well as in face to face courses that have online components. This includes the use of learning management systems such as CANVAS. It exempts accredited non-profit educational institutions from liability when digitally transmitting a performance or display of a copyrighted work to students officially enrolled in a course. (It does not cover making textual materials available to students.)

HOWEVER, there are many conditions that the copyrighted material must meet in order to be covered by the TEACH Act. The performance or display must be:

- Part of systematic mediated instructional activity
- At the direction of or under the actual supervision of the instructor
- An integral part of a class session
- A lawfully made copy of the work

The following technological conditions must be met:

- Digital copies must have technological measures that reasonably prevent recipients from retaining and distributing works beyond the class session (such as streaming video capabilities, “locked” files, etc.)
- Digital copies made may not interfere with technological protections taken by copyright owners

The following notice must be prominently posted in all online courses with copyrighted material:

“The materials on this course website are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated.”

The TEACH Act allows instructors greater freedoms with respect to online education. The principles of the TEACH Act should be applied in addition to the four factors of fair use.
Fair Use Checklist

If you need assistance conducting a fair use analysis, or would like the library to request permission from the copyright holder, please include the following information in an email request to library@swu.edu.

Instructor Name: _____________________________________________________________
Date: __________________________________
Course and Term: _____________________________________________________________
Title of Copyrighted Work: ______________________________________________________
Author and Publisher: ____________________________________________________________
Portion(s) to be used (e.g., pages, timer counts): ______________________________________
Other comments: ________________________________________________________________

Usage: □ This item will be listed in the course syllabus. □ This item is being used for multiple semesters. □ This item is included in the course design for an AGS/online course. □ Other.
This projected usage □ does □ does not meet Fair Use Guidelines
Evaluated by (Librarian): __________________________________________________________

Instructions:
• Use the check boxes below to assess whether your intended use of copyrighted material is fair use or not.
• Where the factors favoring fair use outnumber those against it, reliance on fair use is justified. Where fewer than half the factors favor fair use, instructors should seek permission from the rights holder.
• Where the factors are evenly split, instructors should consider the total facts weighing in favor of fair use as opposed to the total facts weighing against fair use in deciding whether fair use is justified.
• In addition to the number of items checked in each column, certain factors may weigh more heavily. For example, if the use is for commercial purposes, then the amount and scope of a work that may be used is very limited (such as brief quotations). If the intended use amounts to a substitute for purchasing a copyrighted item, no other factors can qualify it as fair use.
• Not all of the facts will be present in any given situation. Check only those facts that apply to your use. No single item or factor is determinative of fair use.
• If your assessment requires you to seek permission, or if you would like assistance conducting your fair use analysis, please contact Rickman Library.
• Complete and retain a copy of this checklist for each “fair use” of a copyrighted work in order to establish a “reasonable and good faith” attempt at applying fair use should any dispute regarding such use arise.
### FAIR USE CHECKLIST

#### Factor 1: Purpose and Character of the Use

<table>
<thead>
<tr>
<th>Weighs in Favor of Fair Use</th>
<th>Weighs Against Fair Use</th>
</tr>
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<tbody>
<tr>
<td>- Nonprofit Educational Teaching (including multiple copies for classroom use)</td>
<td>- Commercial activity</td>
</tr>
<tr>
<td>- Research, Scholarship, Criticism, Comment, News Reporting, or Parody</td>
<td>- Profiting from use</td>
</tr>
<tr>
<td>- Transformative (use changes work for new utility or purpose)</td>
<td>- Entertainment</td>
</tr>
<tr>
<td>- Personal Study</td>
<td>- Non-transformative</td>
</tr>
<tr>
<td>- Use is necessary to achieve your intended educational purpose</td>
<td>- For publication</td>
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<tr>
<td></td>
<td>- For public distribution</td>
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<tr>
<td></td>
<td>- Use exceeds that which is necessary to achieve your intended educational purpose</td>
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#### Factor 2: Nature of Copyrighted Work

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<tr>
<th>Weighs in Favor of Fair Use</th>
<th>Weighs Against Fair Use</th>
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<tr>
<td>- Published work</td>
<td>- Unpublished work</td>
</tr>
<tr>
<td>- Factual or nonfiction work</td>
<td>- Highly creative work (art, music, novels, films, plays, poetry, fiction)</td>
</tr>
<tr>
<td>- Important to educational objectives</td>
<td>- Consumable work (workbook, test)</td>
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</table>

#### Factor 3: Amount and Substantiality of Portion Used

<table>
<thead>
<tr>
<th>Weighs in Favor of Fair Use</th>
<th>Weighs Against Fair Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Small portion of work used</td>
<td>- Large portion or entire work used</td>
</tr>
<tr>
<td>- Portion used is not central or significant to entire work as a whole</td>
<td>- Portion used is central to work or “heart of the work”</td>
</tr>
<tr>
<td>- Amount taken is narrowly tailored to educational purpose, such as criticism, comment, research, or subject being taught</td>
<td>- Amount taken is more than necessary for criticism, comment, research, or subject being taught</td>
</tr>
</tbody>
</table>

#### Factor 4: Effect on Market for Original

<table>
<thead>
<tr>
<th>Weighs in Favor of Fair Use</th>
<th>Weighs Against Fair Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>- No significant effect on market or potential market for copyrighted work</td>
<td>- Significantly impairs market or potential market for copyrighted work or derivative</td>
</tr>
<tr>
<td>- Use stimulates market for original work</td>
<td>- Licensing or permission reasonably available</td>
</tr>
<tr>
<td>- No similar product marketed by the copyright holder</td>
<td>- Numerous copies made or distributed</td>
</tr>
<tr>
<td>- No longer in print</td>
<td>- Repeated or long-term use that demonstrably affects the market for the work</td>
</tr>
<tr>
<td>- Licensing or permission unavailable</td>
<td>- Required classroom reading</td>
</tr>
<tr>
<td>- Supplemental classroom reading</td>
<td>- User does not own lawfully acquired or purchased copy of original work</td>
</tr>
<tr>
<td>- One or few copies made or distributed</td>
<td>- Unrestricted access on the web or other public forum</td>
</tr>
<tr>
<td>- User owns lawfully acquired or purchased copy of original work</td>
<td></td>
</tr>
<tr>
<td>- Restricted access (to students or other appropriate group)</td>
<td></td>
</tr>
</tbody>
</table>

Revised for use by Southern Wesleyan University’s Rickman Library, based upon the University of Georgia University System’s adaptation of the fair use checklist provided by the Copyright Advisory Office at Columbia University, http://www.copyright.columbia.edu/fair-use-checklist.
USE OF MATERIALS PROVIDED BY TEXTBOOK PUBLISHERS

Many publishers now include resource materials for faculty use along with textbooks. The use of such materials is generally governed by a license agreement issued by the publisher. You are normally granted permission to use materials, such as PowerPoint presentations, in the classroom. The materials may include items for which you are given permission to copy/print and distribute in your classroom. Faculty members should follow any guidelines given by the publishers. Generally, a license agreement, either express (you sign it) or implied (by using the materials you are required to follow the licensing agreement) takes precedence over fair use guidelines. If a license agreement states a specific restriction, you cannot use materials that bypass that restriction by claiming fair usage.

If a faculty member desires to use such publisher materials within the learning management system (either for a traditional course or within the module for an AGS or online course), it is very important to follow the licensing agreement. Publishers may grant the right to use such copyrighted material in this manner, or there may be specific restrictions or guidelines. Fair use guidelines would apply only if there is no license agreement or statement of acceptable usage provided by the publisher.
PHOTOCOPYING/SCANNING FOR FACE-TO-FACE INSTRUCTION

The following guidelines should be used in making single copies for personal research, teaching or preparing a class:

- One chapter from a book
- One article from a periodical
- One short story
- One chart, graph, diagram, cartoon, picture from a book, periodical or newspaper

The following guidelines should be used in making multiple copies for classroom distribution:

- Copies should not exceed one per student
- Students should not be charged for the copies (or no more than the cost of duplication)
- Depending on the type of work being copied, faculty should follow the definitions of brevity and spontaneity in Circular 21, “Reproduction of Copyrighted Works by Educators and Librarians” (a publication by the U.S. Copyright Office). See section below on “Copyright Policy Interpretation and Procedures” for examples.
- Copies should be distributed in class as handouts, rather than emailed to students.

NOTE: If you decide to use an item for consecutive semesters, please see the section below: “Copyright Policy Interpretation and Procedures,” which will help you decide how to apply the principles of fair use and/or seek copyright permission. If you wish to distribute materials in multiple semesters, you must submit the Fair Use Checklist to the library for evaluation.

NOTE: Distribution of copies directly to students should normally be limited to “spontaneous” items you locate during the course. If you plan in advance to have students read an item, and the usage fits within fair use guidelines, it is generally better to include the item in the course handouts in CANVAS (with Fair Use Checklist filed with the library), or to provide students with a link to a copy of the item in library databases, etc.
CREATING COURSEPACKS FOR FACE-TO-FACE INSTRUCTION

Course packs, or collections of readings or materials outside of the textbook, should not:

- Be used to create or replace anthologies, compilations, or collected works.
- Include or copy from works that are considered “consumable” such as workbooks and test booklets.
- Substitute for the purchase of books, reprints, or periodicals.

If you choose to use a reading/audiovisual/multimedia work multiple semesters, you will need to determine that EACH item you wish to use either needs permission to be used, or does not need to have permission sought under fair use guidelines. To make this determination, please use the “Fair Use Checklist” above and “Copyright Policy Interpretation and Procedures” below.

The librarians of the Rickman Library are available to assist faculty in making appropriate determinations regarding fair use and copyright law.
PHYSICAL/PRINT RESERVES FOR FACE-TO-FACE INSTRUCTION

By copyright law, copying for physical reserves shall not:

- Be used to create or replace anthologies, compilations, or collected works.
- Include copies from works that are considered “consumable” such as workbooks and test booklets.
- Substitute for the purchase of books, reprints, or periodicals.
- Personal copies of books, recordings, podcasts, etc. may be placed on reserve, so long as they are copies that have been legally made and/or obtained.
- Personal copies of textbooks and workbooks may be placed on reserve, but not if the intent is to substitute for students purchasing those items. Reserve materials should supplement the course, not constitute core resources. For example, a workbook may be placed on reserve if its use is for student enrichment. If workbook pages are intended for class submission, photocopied pages should not be accepted.

Instructors determine that EACH item they wish to place on reserve meets the above guidelines, AND should fill out the fair use checklist. If you are uncertain as to whether your item can be used fairly, fill out the fair use checklist and submit it to library@swu.edu. Rickman Library will conduct a fair use analysis on your behalf and respond to you about whether we are able to place the copy of the item on reserve, or whether permission will need to be sought.
ELECTRONIC RESERVES

Electronic reserves (such as placing a copy of an item within the course materials of the learning management system) often require special considerations when attempting to follow copyright law. Materials that are protected by copyright law may be used in the online components of face-to-face courses and eSWU distance/online education courses when specific guidelines are followed.

An instructor who wishes to use copyrighted material in their course should follow the principles of Fair Use as outlined in the “General Copyright Considerations” section above. Instructors who are uncertain as to whether the item they wish to place within the course module meets the above guidelines should fill out the Fair Use Checklist form and submit it to the library. Rickman Library will conduct a fair use analysis on your behalf and respond to you about whether a copy of the item may be placed within the course module, or whether permission will need to be sought.

Instructors are ultimately responsible for taking steps to determine whether the use of copyrighted material would qualify as fair use. If copyrighted material is 1) listed in the course syllabus as a required or supplemental reading; or 2) is being used in multiple semesters; or 3) is part of the course design for an AGS or online course, then the faculty member must submit the Fair Use Checklist for evaluation and approval to the library before distributing or posting such materials.

It is a good idea for a faculty member to maintain a copy of the fair use checklist for any materials which are placed within the course module. If the faculty member has requested consultation and the library has determined that the usage of copyrighted material falls under a “gray area” in meeting the terms of fair use, then the library will maintain a copy of the fair use checklist in the event that any justification for the use of the material is needed in the future.

In general, if material will be used multiple semesters as a permanent part of the course, permission must be sought from the copyright holder. This includes traditional courses for which the material will be used on a recurring basis and any instance (AGS or online courses) where the syllabus is prepared with the intention of the course being offered at multiple locations and/or times. Under certain conditions, a limited portion of a work may be used multiple semesters. Please contact the Assistant Director of Library Services for more information.

- JOURNAL ARTICLE PERMISSIONS EXCEPTION: For articles from journals to which the Rickman Library subscribes electronically, obtaining permission may be avoided by placing within the course the article’s permalink, which is available in the information about the article in the database where it is located. By sending students directly to the article, you are not making a copy of the article (electronic or paper) and permission is not needed.

Access to copyrighted material will be protected within a course management system which requires the student to login to access the material and prevents students not enrolled in the course from accessing that material. This is considered reasonable protection for all text-based material. Multimedia, such as audio and video, has additional restrictions outlined by the TEACH Act. For detail, see the section on the TEACH Act above.
COPYING OF COPYRIGHTED MATERIAL FOR PERSONAL RESEARCH

While the scope of this policy primarily concerns the use of copyrighted material for instructional purposes, there may be questions about the use of copyrighted material for personal scholarship/research. Generally, faculty and students have fairly broad rights under fair use provisions to make copies of print material for personal use. However, there are limits, and the factors for fair use evaluation should be used before any extensive copying is done. Normally, an individual may make a single copy of a chapter of a book (or no more than 10% of the book) or a periodical article (no more than 3 articles from the same periodical). This is based on the assumption that the material is for personal study, will not be used for commercial purposes, will not be further copied/distributed, and is not a substitute for purchasing materials (i.e., a person who copies more than 3 articles from a journal issue or more than 10% of a book should buy the book or journal issue). This provision may apply to a limited extent to graphic material (charts, graphs, photos) contained within print materials, but an individual should copy such materials only sparingly, and may not redistribute such without permission.

For scholarly work, whether published or unpublished, an individual may include short excerpts from printed materials if proper source documentation is provided. Some leeway may be granted for including graphic materials from print sources within coursework (such as including a graph or chart in an unpublished research paper), however any such materials should not be included in published works without permission.

Greater restrictions apply to images, audio, video files, or other multimedia materials. Generally, faculty or students may use a limited amount of such materials in classroom presentations (see Copyright Policy Interpretation and Procedures below). However, one must be careful to avoid making illegal copies of materials to retain for personal use. It is not okay to make and keep personal copies of commercial audio or video files. While it may be acceptable to gather photos from various sources for the purpose of a presentation (with source documentation), it is not acceptable to build a personal photo collection from copyrighted sources without permission. Note: just because an image, or other material, is posted on the Internet does not mean it may be freely copied and used by others; you should follow the guidelines of fair use. Remember that any materials, including photos, created since 1989 have copyright protection even if no notice of copyright is stated.
COPYRIGHT POLICY INTERPRETATION AND PROCEDURES
Southern Wesleyan University & Rickman Library

Questions to ask about an item before attempting to apply SWU’s interpretation of fair use:

- Is it in the public domain? (published before 1923) (Such materials may be copied freely, but not associated material, such as commentary or notes, which may be covered by copyright.)
- Is it a government document or website? (can be used freely by anyone) (Make sure material on a government website has not been reproduced from other sources.)
- Is it common knowledge, an idea, or a theme? (cannot be copyrighted)
- Is it freely available online? (however, it is prudent for faculty members to assess whether the person who put the information online did so in an ethical manner)

If you cannot answer “yes” to any of the preceding questions, you should use the guidelines below to assess whether your intended use could be considered “fair use”.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>FACE-TO-FACE CLASSROOM USE</th>
<th>ONLINE/DISTANCE LEARNING</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Books</strong></td>
<td>For <em>one-time</em> distribution to a class, a faculty member may make multiple copies if s/he:</td>
<td>For <em>one-time</em> distribution to an online class, a faculty member may place a digital copy of material within the course if s/he:</td>
</tr>
<tr>
<td></td>
<td>- Uses one chapter of the book OR 10% or less of the book**</td>
<td>- Uses one chapter of the book OR 10% or less of the book**</td>
</tr>
<tr>
<td></td>
<td>- makes no more than one copy for each student</td>
<td>- includes the copyright notice</td>
</tr>
<tr>
<td></td>
<td>- includes the copyright notice</td>
<td>- acts on his or her own inspiration (&quot;spontaneity&quot;) in their choice to include the work</td>
</tr>
<tr>
<td></td>
<td>- acts on his or her own inspiration (&quot;spontaneity&quot;) in their choice to include the work</td>
<td></td>
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<td></td>
<td>OR</td>
<td>OR</td>
</tr>
<tr>
<td></td>
<td>if an eBook is owned by Rickman Library, you may link to it in your course by linking to its permanent location (permalink) in the database.</td>
<td>if an eBook is owned by Rickman Library, you may link to it in your course by linking to its permanent location (permalink) in the database.</td>
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<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>eBooks</strong></td>
<td>For <em>one-time</em> distribution to a class, a faculty member may make multiple copies if s/he:</td>
<td>For <em>one-time</em> distribution to a class, a faculty member may post an ebook in his/her online course if s/he:</td>
</tr>
<tr>
<td></td>
<td>- Uses one chapter of the book OR 10% or less of the book**</td>
<td>- Uses one chapter of the book OR 10% or less of the book**</td>
</tr>
<tr>
<td></td>
<td>- makes no more than one copy for each student</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>OR</td>
<td></td>
</tr>
<tr>
<td></td>
<td>if an eBook is owned by Rickman Library, you may link to it in your course by linking to its permanent location (permalink) in the database.</td>
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<tr>
<td></td>
<td>*The use of material in multiple semesters or by inclusion in an AGS/online course requires special consideration. Under certain circumstances (less than 10% of the work and no “reasonable or easy” access to a licensed copy), an item may be used in this way. In other cases, permission is required to use materials in multiple semesters/sections of a course.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>**For books such as anthologies, which compile complete works by multiple authors, you must follow the 10% rule as it applies to the individual work (i.e., for a collection of short stories, you may not distribute the entire short story...you may only distribute 10% of the individual work).</td>
<td></td>
</tr>
</tbody>
</table>
| Journal/Magazine/Newspaper Articles | For one-time* distribution to a class, a faculty member may make multiple copies if s/he:  
- copies no more than 3 articles from a single periodical  
- makes no more than one copy for each student  
- includes the copyright notice  
- charges no more than the cost of copying  
- acts on his or her own inspiration ("spontaneity")  
- distributes no more than 9 copied items during any one course (except for newspaper articles)  
*Under limited circumstances, an item may be copied for use in multiple semesters; in others, permission may need to be sought.  
OR  
if the journal/magazine/newspaper is available electronically through the Rickman Library, you may link to the article in your course by linking to its permanent location (permalink) in the database without seeking permission. | For one-time* distribution to a class in an online class, periodical articles may be posted in the course syllabus or hand out section if the professor:  
- includes the copyright notice  
- acts on his or her own inspiration ("spontaneity")  
*Under limited circumstances, an item may be placed in the course for use in multiple semesters; in others, permission may need to be sought.  
OR  
if the journal/magazine/newspaper is available electronically through the Rickman Library, you may link to the article in your course by linking to its permanent location (permalink) in the database without seeking permission. |
| --- | --- | --- |
| **Audio** | If an item is already posted in its entirety on the Internet, you can freely play it in your classroom.*  
(e.g. an audio clip found at NPR.org)  
- it may be prudent to evaluate whether the person who posted the audio is a trustworthy source/organization | If an item is already posted in its entirety on the Internet, you can freely link to it in an online syllabus/course. (e.g. an audio clip found at NPR.org)  
- it may be prudent to evaluate whether the person who posted the audio is a trustworthy source/organization |
| If you have an item that has been obtained legally (such as purchase or borrowed from a library), you can play the audio in class if it is:  
- under the faculty member’s supervision  
- part of a regular course offering  
- played in the classroom  
- played for students enrolled in the course  
- relevant to the teaching content of the course and not just for entertainment | If an item is not online and is already digital, then:  
- All of a non-dramatic work may be played  
- A “reasonable and limited portion”, i.e. the amount necessary for achieving the educational purpose, of a dramatic work may be played, but not the entire work. (10-15% is a good benchmark)  
- The audio should be posted in the course as streaming audio, not as a file that can be downloaded.  
If an item is in an analog format, then you may not digitize it, unless:  
- You have made an effort to find and purchase a digital version of the item and it is unavailable.  
- Then, you may digitize it and play it online if you follow the guidelines for works that are already digitized above. |
<table>
<thead>
<tr>
<th>Video</th>
<th>If an item is already posted in its entirety on the world wide web (i.e. a youtube video), you can freely link to it in your electronic syllabus.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generally, if an item is already posted in its entirety on the Internet, you can freely show it in your classroom.</td>
<td>• However, you must also assess whether showing the video would be ethical based on the type of material shown, who posted it, etc. (i.e. a YouTube video of a DVD that is commercially available may not be ethical. Instead, you should rent or buy a legal copy of the DVD.)</td>
</tr>
<tr>
<td>• However, you must also assess whether showing the video would be ethical based on the type of material shown, who posted it, etc. (i.e. a YouTube video of a DVD that is commercially available may not be ethical. Instead, you should rent or buy a legal copy of the DVD.)</td>
<td></td>
</tr>
<tr>
<td>If an item is not online and has not been recorded from another source (i.e. not recorded from TV) you can play the video in class if it is:</td>
<td>If an item is not online, you may use it in your online class under the following conditions:</td>
</tr>
<tr>
<td>• viewed under the faculty member’s supervision</td>
<td>• It must be shown behind the password protected learning management system</td>
</tr>
<tr>
<td>• viewed as part of a regular course offering</td>
<td>• It must be part of regular mediated, instructional activities</td>
</tr>
<tr>
<td>• viewed in the classroom</td>
<td>• It must be viewed as part of a regular course offering</td>
</tr>
<tr>
<td>• only viewed by students enrolled in the course</td>
<td>• It must not be something primarily marketed for the online/distance environment</td>
</tr>
<tr>
<td>• relevant to the teaching content of the course and not just for entertainment</td>
<td>• There must be appropriate restrictions to the video that would limit the ability of students to download it. (i.e. you must post it as a streaming video rather than as a video file that students could download)</td>
</tr>
<tr>
<td>• The work was acquired/made legally</td>
<td>• For non-dramatic works, you may show/transmit the work in its entirety.</td>
</tr>
<tr>
<td>• you include the copyright notice</td>
<td>• For dramatic works, you must only show/transmit a “reasonable and limited portion,” not the work in its entirety. (use fair use checklist to determine what is “reasonable/limited”)</td>
</tr>
<tr>
<td>NOTE: You may be able to show a video in a setting other than the classroom if there is a specific meeting of the class in another place, provided that other people are not included. However, you may not show a video, even if intended for your class, in a place or at a time that others may view (such as in JavaCity), unless you have “public performance” rights for the video.</td>
<td>NOTE: You should not digitize an analog work for the purposes of placing it within an online course, unless you are unable to purchase a digital version. (For example, you may not turn a VHS tape into a DVD, and then post it in your course. You must purchase the DVD separately, UNLESS it is unavailable in this form.)</td>
</tr>
<tr>
<td>If an item has been recorded off TV from a broadcast (NOT CABLE) channel, or from another source, you can play the video in your class if:</td>
<td>If an item has been recorded off TV from a broadcast (NOT CABLE) channel, or from another source, you can play the video in your class if:</td>
</tr>
<tr>
<td>• It is within 10 days of the original broadcast</td>
<td>• It is within 10 days of the original broadcast</td>
</tr>
<tr>
<td>• You use it for one semester only</td>
<td>• You use it for one semester only</td>
</tr>
<tr>
<td>• You include the copyright notice</td>
<td>• You include the copyright notice</td>
</tr>
<tr>
<td>• You make only enough copies to meet instructional needs</td>
<td>• You make only enough copies to meet instructional needs</td>
</tr>
<tr>
<td>• You either purchase it or erase your copy within 45 days of the original broadcast</td>
<td>• You either purchase it or erase your copy within 45 days of the original broadcast</td>
</tr>
<tr>
<td>• You do not edit or manipulate it</td>
<td>• You do not edit or manipulate it</td>
</tr>
<tr>
<td>If an item has been recorded off TV from a CABLE channel (i.e. HBO, CNN, etc.) permission should be sought from the copyright holder.</td>
<td>If an item has been recorded off TV from a CABLE channel (i.e. HBO, CNN, etc.) permission should be sought from the copyright holder.</td>
</tr>
</tbody>
</table>
| Images & Other Visuals | If an item is already posted in its entirety on the Internet (i.e., a Flickr photo stream), you can freely show it in your classroom.  
You can display any type of picture or image in your classroom if it is:  
- viewed under the faculty member’s supervision  
- viewed as part of a regular course offering  
- only viewed in the classroom  
- only viewed by students enrolled in the course  
- relevant to the teaching content of the course and not just for entertainment  
- acquired/made legally  
NOTE: If a professor would like to copy the image for use in multiple semesters, permission may need to be sought. | If an item is already posted in its entirety on the Internet (i.e., a Flickr photo stream), you can freely link to it in an online syllabus.  
If you have an image file that is already digital, you may post it if it is comparable to what you would be able to show in a face-to-face format.  
You must only make the amount of copies necessary to transmit the image.  
If the item is not digital, you may not digitize it, unless:  
- You have made an effort to find and purchase a digital version of the item and it is unavailable  
NOTE: If a professor would like to copy the image for use in multiple semesters or put it in an online course, permission may need to be sought. |
| Websites | If an item is already published on the Internet, you may show it in class or link to it in your syllabus.  
- If you use a large amount of content from the site, particularly if it is repeated more than one semester, you should cite the website in your course materials, and include any language about use and/or permissions IF they have it available.  
If you use content (text, images, etc.) from a website through any of the following methods:  
- Copy/paste  
- Downloading  
- Screenshots  
you MUST follow the same process for evaluating fair use principles and seek permission if you are unable to establish fair use.  
NOTE: If you intend to use such materials in multiple semesters, it increases the likelihood that permission should be sought. | If an item is already published on the Internet, you may link to it in your syllabus.  
- If you use a large amount of content from the site, particularly if it is repeated more than one semester, you should cite the website in your course materials, and include any language about use and/or permissions IF they have it available.  
If you use content (text, images, etc.) from a website through any of the following methods:  
- Copy/paste  
- Downloading  
- Screenshots  
you MUST follow the same process for evaluating fair use principles and seek permission if you are unable to establish fair use.  
NOTE: If you intend to use such materials in multiple semesters or include in an AGS/online course, it increases the likelihood that permission should be sought. |
PROCEDURES FOR USING COPYRIGHTED MATERIAL

This guide has been prepared to assist you in the appropriate use of copyrighted materials. However, since there are institutional implications and responsibilities regarding the manner in which materials are used, Southern Wesleyan University has adopted the following policy:

If a faculty member wishes to use copyrighted material and such material will be distributed (via photocopy or electronic format), and such material is 1) listed in the course syllabus as a required or supplemental reading; or 2) is being used in multiple semesters; or 3) is part of the course design for an AGS or online course, then the faculty member must submit the Fair Use Checklist for evaluation and approval to the library before distributing such materials.

A faculty member who wishes to include copyrighted material (that will be distributed in class or posted within the course handouts) in the course syllabus, should first submit the Fair Use Checklist to the library. If a fair-use determination is made (or if permission is sought and received), the material may be used. A copy of the Fair Use Checklist is to be attached to the syllabus when it is submitted to the Dean or Division Chair.

The intention of this policy is to provide an understanding of the extent to which copyrighted material is being used as well as to demonstrate a good-faith effort on the part of the university toward complying with applicable copyright laws. The intent of this policy is to allow faculty as much opportunity to use materials as the law allows, while maintaining appropriate boundaries, including recognition of the intellectual property rights of the authors.

Note: This requirement to submit the Fair Use Checklist applies only to the specific cases listed above (an item listed in the syllabus or used in multiple semesters). A Fair Use Checklist is not required for other uses, including the one-time distribution of an item that was not planned and included in the syllabus nor for materials incorporated into a classroom presentation. However, a faculty member may wish to submit a Fair Use Checklist to the library for assistance in determining applicable usage of materials even if the checklist is not required.
REFERENCES

Copyright guidelines and best practices above were compiled from the following sources:


Cornell Copyright Information Center. “Copyright Term and the Public Domain in the United States” Web. 28 March 2012.


