How Can I Design Copyright-Compliant Courses?

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Linda Enghagen, J.D., is an attorney and Professor in the Isenberg School of Management at the University of Massachusetts at Amherst. Her scholarly contributions related to intellectual property are directed to the needs of faculty members including two books, Technology and Higher Education: Approaching the 21st Century and Fair Use Guidelines for Educators.

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How Can I Design Copyright - Compliant Courses?

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Course Design & Delivery

Copyright Law

- Content
- Resources
- Compliant

Scenario #1

You create your own course materials. Per institutional policy, you retain copyright ownership.

- You can do whatever you want!

Do It Yourself

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Scenario #2

You create your own course materials. Per institutional policy, the institution holds the copyright but you retain a non-exclusive license to use them.

- You can use them including at a new job.
- Your institution can do whatever it wants.

Scenario #3

You create your own course materials. Per institutional policy, you and the institution hold the copyright as joint owners.

- You can use them including at a new job.
- Your institution can use them including permitting other instructors to use them.
Textbooks, Supplements...

- Adopted for class
  - Use book + supplements

- Designed & sold for student purchase
  - Students **must** purchase

Library Resources

Electronic Resources

- Articles, Books & Film-on-Demand
  - Link
  - Fair use ≠ a problem
  - E-reserves
  - Post PDF
    - Per institutional policy
    - Fair use?
Print Resources

Articles & Books
• Place on reserves
• Create & Post PDF
  — Per institutional policy
  — Fair use?

Cambridge University Press et al vs. Patton et al

• Purpose or character of use
  — Educational = OK

• Nature of work used
  — Non-fiction & published = neutral
  — Fiction or creative less likely fair use

Cambridge University Press et al vs. Patton et al

• Portion used – Amount & Substantiality
  — 11th Circuit Court of Appeals
    • Rejected 10% or 1 chapter
    • Agreed: “heart of the work” always requires permission
    • Agreed: 1976 Guidelines ≠ law
      — Case-by-case evaluation
Cambridge University Press et al vs. Patton et al

- Impact on market
  - No permissions system favors fair use
  - Market substitution?
    - “substantial” harm if “everyone did it”
  - Case-by-case evaluation

5th Fair Use Factor = Good Faith

- Best Practices in Fair Use
  - Free at Center for Social Media
- Is your use “transformative?”
- Institutional policy
- Librarians
- Instructional designers

Open Access
Consistent With Authorization

- Open Access
  - About free reproduction and distribution
  - Not about © ownership

- Public Domain
  - No one owns ©

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This work is licensed under the Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License.
To view a copy of this license, visit
http://creativecommons.org/licenses/by-nc-sa/4.0/

Free Websites
Unsecured

- Link
  - URL = legal equivalent of street address

- Post screen shot or PDF of site content
  - Permission
  - Fair use?

Public Domain Works

Legal Term of Art

No Universal Symbol

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Examples

- Works created by the federal government
- Copyright expired
- Works placed in public domain

Personal Copies

Online ≠ F2F

- F2F
  - Handouts
  - Show video etc.
- Online
  - Handouts still OK
  - BUT to stream video
    - Institutional must stream and retain digitized copy
    - Institutional policy may not allow use of personal copies
We'd like to know what you think!

Here is the link to our evaluation form:
https://www.surveymonkey.com/s/CopyrightCompliant