Copyright for Instructors

More at www.cgcc.edu/library/copyright-and-fair-use

What is Copyright?

Copyright is a Limited Monopoly

- Monopoly created by law
- Exclusive rights for a limited time
- Incentive to keep creating
- Need permission of author to use materials
- Need to pay to use materials

Exceptions to Copyright

Fair Use

- Exceptions written into the law to use materials without permission
- Examples: research, teaching, criticism, reporting, and parody
- Fair Use is not a steadfast rule, but that makes it more flexible

TEACH Act

- Acronym stands for: Technology, Education and Copyright Harmonization
- Exceptions to copyright specifically for distance education
- Materials must be behind a password-protected wall, access limited to only currently enrolled students

Public Domain

- No copyright owned by anyone
- Copyright has expired or was never copyrighted at all
- Can use any public domain material with no restrictions

Alternatives to Copyright

Creative Commons License

- Authors chose to waive certain rights
- Generally speaking, Open Educational Resources (OERs) use CC licenses
- https://creativecommons.org/
Framework for Analysis

Ask in order – you may not need to go through entire list

1. Is the work protected by copyright?
   - Is the work I want to use protected by copyright, or is it in the public domain?
   - If I wrote it, do I still own copyright, or did I sign over rights for my intended use to the publisher?

2. Is there a specific exception in copyright law that covers my use?
   - Is my intended use covered by a specific exception to the exclusive rights in the copyright law, such as for libraries or for classroom performances and displays?

3. Is there a license that covers my use?
   - Is there a Creative Commons license attached to the work? If so, can I comply with the terms of the license, or can I find another work that is CC-licensed?
   - If affiliated with an educational institution, is there a license that governs how the copyrighted materials I’m accessing through my library can be used?

4. Is my use covered by fair use?
   - Four factors for fair use are:
     • The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit 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
   - Questions for transformative fair use under factor one are:
     • Does the copyrighted materials help me make my new point?
     • Will it help my readers or viewers get my point?
     • Have I used no more than is needed to make my point?

5. Do I need permission from the copyrighted owner for my use?
   - If so, first locate the copyright owner and fully explain your intended use in your permission request
   - If no response or answer is no, reconsider your use of this work to see if you can make a fair use, or consider using another work

Taken from handout “A Framework for Analyzing any Copyright Problem” by Kevin Smith and Lisa Macklin. Creative Commons Attribution Share Alike License 4.0

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