

COPYRIGHT FAQ'S

I. Fair Use Guidelines

What happened to the 10% rule of copying from a book that was created and adopted as best practice by a group of publishers and academics?

It was overturned the Appeals Court in Cambridge Univ. Press v. Patton in 2014. The Appeals Court stated that the analysis should be done at a case-by-case level and consider both the amount taken to support the pedagogical teaching point and also the threat to market substitution, i.e., whether a publisher, author, and/or 3rd party vendor should have received payment. In the Georgia State lawsuit, less than 10% was considered a violation of copyright in two instances of a professor copying from a work.

Does Factor 2 in the fair use guidelines, i.e., the nature of the work, always favor fair use in an academic setting?

No. This may receive a "neutral" rating by a court in determining fair use. In the instance where the work used expresses the opinions or subjective analysis of the author the courts have ruled that this as a breach of fair use.

II. Digital Media

Can a professor record and use a TV program?

Yes, for the first 10 days after the program has aired provided it is on a publicly available channel and not a cable channel. The law is written for 10 days to give the professor time to determine if the material should be leased or purchased for class sessions after the 10-day period.

Many TV channels, including cable channels, have a YouTube site. It is legal to link to the YouTube channel in your Canvas shell. Please note that the law assumes that it is obvious to the student that they are linking out to the producer's site.

The personal recording may be kept for 45 days for evaluation purposes, but must not be shown to students after 10 days. The law states that the recording should be destroyed after 45 days.

Why can Google legally publish headlines from news sources and my taking a news article is an infringement of the law?

Google has licensing agreements with the major news publishers.

III. Potential Infringements

Who is responsible when a student downloads or distributes copyrightable material?

Copyright attorneys suggest that the professor put in their syllabus or on their Canvas shell that the material is copyrighted and should not be downloaded, saved, or distributed by a student.

Why can't I have media services stream from my personal DVD?

The 2002 Teach Act specifically states that it is a breach of copyright for an institution to break a digital lock.

It is the responsibility of the person who posts a video to YouTube to ensure that it is a legally made copy.

Wrong. The 2002 Teach Act specifically states that it is a copyright infringement if the individual knew or should have known that the copy was not legally made. As one attorney stated in an article about the Teach Act, "it is no longer OK to say, 'I did not know.'"

REFERENCES

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