



# Copyright and Distance Education

*Using Copyrighted Materials in a Distance Learning Environment*

Professional Development

November 22-23

## Laws Affecting Distance Education and Copyright

- Copyright Act of 1976

- Extended the length of copyright
- Brought the concept of "Fair Use" into the mainstream.



## Laws Affecting Distance Education and Copyright

- Digital Millennium Copyright Act (DMCA) of 1998 – limits infringement liability for service providers.

- We provide online content to our students.



## Laws Affecting Distance Education and Copyright

- **TEACH (Technology, Education, and Copyright Harmonization) Act of 2002**

- **Effort to create a balance between copyrighted works and instructors doing their jobs.**
- **Allows for problems that may occur with converting an on-campus course to a distance course.**
  - Storage of material on a server
  - Expansion of receiving locations
  - Digitizing of analog works



## DMCA Statement on Our Website

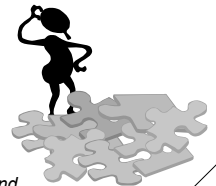
**•Disclaimer:** Northwest-Shoals Community College offers several Distance Education and On-Campus Courses that utilize message boards and chat rooms as communication tools for instructors and students. The claims and statements, expressed, implied or guaranteed by individuals on these sites, are the sole responsibility of those individuals. Northwest-Shoals Community College does not guarantee, confirm, or support information posted to message boards or chat rooms used in these courses.

**•Digital Millennium Copyright Act Compliance:** The materials on Northwest-Shoals Community College course web sites are only for the use of students enrolled in these courses for purposes associated with the courses and may not be retained or further disseminated. Every effort is made to comply with the provisions of the Digital Millennium Copyright Act (17 U.S.C. § 512) and the Technology, Education, and Copyright Harmonization (TEACH) Act (17 U.S.C. § note).

## What parts of my class or website can be copyrighted?

- Web Page Design
- Text and Graphics
- Class Content

- *Content contained in videos and websites created while working for NW-SCC or as a Title III Project will be copyrighted as a "Work for Hire"*

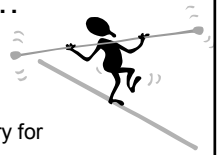




## You are not infringing if...

- You are the copyright owner.
- You have express, written permission.
- The work is in the public domain.
- You are adhering to the "Fair Use" clause.

## Stick within fair use...



- Non-Profit, Educational Use
- Use only the amount necessary for instruction
- Effect on the potential market for the work
  - Do NOT use a work just to avoid paying for it or to avoid your students paying for it.

## Fair Use in Detail

- Motion Media (Video)
  - 10% or 3 minutes – whichever is less
- Text Material
  - 10% or 1,000 words – whichever is less
  - An entire poem may be used if 250 words or less, but no more than three poems by the same poet or five poems by different poets

## Fair Use in Detail

- Music, Lyrics, and Music Video
  - 10%, but in no event more than 30 seconds
- Illustrations and Photographs
  - May be used in its entirety, but no more than 5 images by an artist
  - If from a collective work, no more than 10% or 15 images – whichever is less

## Fair Use in Detail

- Numerical Data Sets
  - 10% or 2,500 field or cell entries from a database or file containing code

## Fair Use Examples

- Scenario: A professor has posted his class notes on a Web page available to the public. He wants to scan an article from a copyrighted journal to add to the website.

Is this fair use?

- Only if access is restricted to the students enrolled.

## Fair Use Examples

- Scenario: An instructor copies a Shakespearean play from a copyrighted anthology.

Is this fair use?

- Yes. The play is in public domain and not subject to copyright laws.

## Fair Use Examples

- Scenario: A teacher or student prepares and posts a presentation on the internet that displays photographs. Permission was not obtained to use the photographs.

Is this fair use?

- Yes, but access must be limited to enrolled students.

## Fair Use Examples

- Scenario: A teacher or student creates a presentation and incorporates copyrighted music into the background without obtaining permission. The presentation is posted on the web.

Is this fair use?

- Yes, as long as access is restricted.

## Fair Use Examples

- Scenario: An instructor posts a commercial videotape for students to view through a course website.

Is this fair use?

- Yes, as long as access is restricted.

## Fair Use – For Students

- Student works such as presentations which contain copyrighted materials may be posted on websites for others to view as long as the student agrees and access to the material is limited to students enrolled in the class.

## Sample Fair Use Worksheet

- This will help you in determining if your use of a work falls under the "Fair Use" clause.



## Public Domain – Where Copyrights Go to Die

- Non-Copyrightable Items
- Lost Copyrights
- Expired Copyrights
- Government Documents
- Works declared in the public domain

## Non-Copyrightable Items

- Ideas
- Facts
- Titles
- Names
- Short phrases
- Blank forms
- Procedure
- Process
- System
- Method
- Concept
- Word
- Phrase
- Slogan
- Motto
- Principle

## Patents & Trademarks

### Patent

- Procedure
- Process
- System
- Method
- Concept

### Trademark

- Title
- Word
- Phrase
- Slogan
- Motto

## Public Domain - Lost Copyright

- All works published before January 1, 1978 that did not contain a valid copyright notice *may* be considered to be in the public domain.
- Owners of works published between 1978 and March 1, 1989 that did not contain a valid copyright notice were given a five year grace period in which to correct the problem of publication without notice before their work was unceremoniously tossed into the public domain .

## Public Domain - Expired Copyrights

- You are free to copy any work published before 1964 in which the copyright owner failed to renew his copyright.

## Public Domain - Government Documents

- Federal documents and publications are not copyrighted, and therefore are considered to be in the Public Domain.
  - For example, I could have downloaded (copied) a document published by the copyright office about investigating copyright status and re-distributed it on the net by incorporating it into my website.



## Sources

- U.S. Copyright Office  
<http://www.copyright.gov>
- North Carolina State University Library  
<http://www.lib.ncsu.edu/scc/index.html>
- Georgia Perimeter College  
<http://www.gpc.edu/>
- Board of Regents – University System of Georgia  
<http://www.usg.edu/admin/legal/copyright/#part2e3>
- The American Distance Education Consortium  
<http://www.adec.edu/admin/papers/fair10-17.html>
- Education World Website  
[http://www.educationworld.com/a\\_tech/tech/tech121.shtml](http://www.educationworld.com/a_tech/tech/tech121.shtml)