

Copyright and Fair Use

Southeast New Mexico College (SENMC) encourages its faculty, staff, and students to use multimedia and text resources to enhance teaching and learning. All members of the SENMC community are required to abide by copyright and intellectual property law, including the U.S. Copyright Act, the Digital Millennium Copyright Act, and the TEACH Act.

Introduction

Copyright and fair use are complex legal issues. In some circumstances, there is a fine line between copyright and fair use. In order to determine if a specific source is considered fair use, there are certain criteria that the resource must meet in order to consider it fair use. With the variety of resources that are easily accessible, each resource should be evaluated individually and on a case-by-case basis because the topic of copyright is not a black or white issue. The intent of the Copyright and Fair use guidelines are to act as a guide in assisting the SENMC community in making informed choices when selecting materials protected by copyright for use in a classroom; whether it be traditional, hybrid, or virtual.

Definition and Guidelines of Copyright (Copyright.gov)

Copyright is a form of legal protection provided by the laws of the United States for "original works of authorship", including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. "Copyright" literally means the right to copy but has come to mean that body of exclusive rights granted by law to copyright owners for protection of their work.

Copyright protection does not extend to any idea, procedure, process, system, title, principle, or discovery. Similarly, names, titles, short phrases, slogans, familiar symbols, mere variations of typographic ornamentation, lettering, coloring, and listings of contents or ingredients are not subject to copyright. However, in some cases, these things may be protected as trademarks.

Definition and Guidelines of Fair Use (Copyright.gov)

Fair Use is defined as a *“legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances without the permission of the owner of the work.”* These conditions may be used for limited purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship and research.

Fair use does not include mass copying of materials for repeated classroom use (such as in lieu of a textbook), use in a commercial activity, use that results in profit, entertainment as opposed to educational use, or use that does not give credit to the original author.

Examples of uses that may be eligible under Fair Use:

- Quotations and short passages in a scholarly or technical work for illustration or clarification of the author’s observations;
- Use of short portions of a copyright-protected materials in a parody
- Content that is used in a different way than the original purpose without seeking profit
- Open Educational Resources

- Resources purchased or subscribed to by your institution library

Definition and Guidelines of TEACH Act (Copyright.gov)

On November 2, 2002, President George W. Bush signed the Technology, Education, and Copyright Harmonization (TEACH) Act. This is the product of discussion and negotiation among academic institutions, publishers, library organizations and Congress. It offers many improvements over previous regulations, specifically section 110(2) and 112(f) of the U.S. Copyright Act. This federal law specifically addresses the use of copyrighted works in the online classes.

Under the TEACH Act an instructor must reasonably:

1. Limit access to copyrighted works to students currently enrolled in the class;
2. Limit access only for the time needed to complete the class session or course;
3. Inform instructors, students, and staff of copyright laws and guidelines;
4. Prevent further copying or redistribution of copyrighted works; and
5. Not interfere with copy protection mechanisms, like DRM (digital rights management).

Use of Public Domain

Public domain content refers to creating materials that are not protected by intellectual property laws such as copyright, trademark, or patent law. Anyone is allowed to use public domain work without obtaining permission from the original creator, however, no one person may own the content.

Library Resources Usage and Guidelines

The SENMC Library database collections contain materials that may be used for academic teaching and learning, research, and general knowledge purposes. Faculty may provide students with access to these materials by providing students with the direct link to materials.

Images, Music, and Video

Images, music, and videos obtained or owned by the library may be used in your courses without requesting permission from the creator. The library is responsible for paying the licensing fee with the campus streaming subscriptions, unless budget restrictions occur or no streaming subscription is active. If funds are unavailable for purchase using the library budget, the requesting department will be responsible for the cost of the license. Approval from department chair will be required prior to placing the request for licensing.

If the library owns a physical copy of the work, the library may place that copy on reserve without obtaining copyright permission. However, if the library would like to reproduce additional copies to place on reserve, the library must obtain copyright permission, or purchase additional licenses. Alternative funding may be used in place of library funds.

Photocopying and Copying of Content

The library must display a copyright notice in any area where library users scan/make copies. It is the responsibility of users who are copying and scanning content to abide by all copyright and fair use laws.

SENMC is not responsible for monitoring content that is being copied or reproduced by users. In the case a user is unsure of whether or not they are violating copyright laws, they may consult with the campus librarian or contact the copyright office at <https://copyright.gov/help/> However, campus librarians are not responsible for any error in judgement or guidance related to copyright laws and exceptions.