

Minutes of the CAS Online Faculty Discussion Group Meeting  
December 10, 2008  
12:00 pm

Attendees:

Katie Barwick-Snell, Melanie Bratcher, Patrice Brink, Karen Cozart, Jackie Farley, Kay Ham, Victoria Hoge, Kamala Jolly Stewart, Betsy Martens (via video-conferencing in Tulsa), Dan Snell, Mark Walvoord, Stacey Zemke

### *Introductions*

Attendees introduced themselves.

### *Announcements*

Karen Cozart's last day at OU will be December 19, 2008. Please continue to call the CAS Online Program office at 325-5854 with questions or for assistance.

### *Agenda*

Julia Messitte, a Staff Attorney with the Office of Legal Counsel presented information for the CAS Online Faculty and Staff regarding Fair Use, the TEACH Act, and copyright issues.

Here is the link to Ms. Messitte's [PowerPoint presentation](#) on Fair Use and the TEACH Act.

Here is the link to the brochure called [Know Your Copy Rights](#).

Here is a link to the [TEACH Act checklist](#) (scroll to the bottom of the page).

Here is a link to the [TEACH Act Toolkit presentation from North Carolina State University](#).

### *Next Meeting*

The next meeting of the CAS Online Discussion Group is scheduled for Wednesday, January 28, 2009 at 12:00 noon on the Norman Campus in Ellison Hall 220, and via video-conferencing on the Tulsa Campus, Room 3J23.

### *Adjournment*

The meeting adjourned at 1:30 pm.

# Fair Use Guidelines for Online Courses

University of Oklahoma  
December 10, 2008

Julia Messitte, Attorney  
Office of Legal Counsel

Evans Hall, Room 213  
325-4124



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# United States Copyright Law

“The Congress shall have the power...to promote the Progress of Science and useful Arts by securing for limited Times to Authors and Inventors exclusive Right to their respective Writings and Discoveries.”

(U.S. Constitution, Article I,  
Section 8)



# Intent of the United States Copyright Law

- It is important that science and the arts be encouraged.
- The creation and dissemination of knowledge is the purpose of copyright, benefits to authors and inventors is side effect.



# What can be Protected by Copyright? Tangible Works

- Literary works
- Musical works, including accompanying words
- Dramatic works
- Pantomimes and choreography.



# What can be Protected by Copyright?

- Pictorial, graphic and sculptural works
- Motion pictures and other audiovisual works
- Sound recordings
- Architectural works.



# FAIR USE

- Encourages socially beneficial uses of copyrighted works such as teaching, learning, and scholarship.



# FAIR USE GUIDELINES

SINGLE COPY FOR  
RESEARCH, TEACHING, OR  
PREPARING FOR CLASS:

- Chapter from a book
- Article
- Short story, essay, poem
- Chart, graph, diagram, drawing, cartoon, picture.



# FAIR USE for Online Courses

- The distribution of the same photocopied material does not occur every semester
- Only one copy is distributed for each student which must become the student's property



# FAIR USE for Online Courses

- The material includes a copyright notice on the first page of the portion of material photocopied
- The students are not assessed any fee beyond the actual cost of the photocopying.



# FAIR USE for Online Courses

## Guidelines for eligibility

- Educational Institution
  - Non profit educational institutions
    - Support research and instructional activities
  - Government agencies that offer instruction to their employees
- Students
  - Officially enrolled in the course
  - Government officials as part of their official duties



# FAIR USE for Online Courses

Works performed for instruction

- Must be integrated into the course
- Must be part of systematic instruction
- Directly related and of material assistance to the teaching content of the transmission
- Must not be for entertainment purposes



# FAIR USE for Online Courses

## Transmission and Reception

- Transmission must be over a secure system with technological limitations on access to the class or program
- Reception must be in a classroom or other similar place normally devoted to instruction or any other site where the reception can be controlled by the eligible institution
- Institution must utilize technological means to prevent copying of the portion of the class session that contains performance of copyrighted work



# FAIR USE for Online Courses

- Limitations
  - One Time Use
    - Performance of an entire copyrighted work or a large portion thereof may be transmitted only once for a distance learning course.
    - *For subsequent performances, displays, or access, permission must be obtained.*



# FAIR USE for Online Courses

## Reproduction and Access to Copies

- Institution receiving the transmission may record or copy classes that include the performance of an entire copyrighted work, or a large portion thereof – *recording can be retained for 15 consecutive class days for viewing by students enrolled in the course*
- Access must be in a controlled environment
- Institution must prevent copying of work by student



# FAIR USE for Online Courses

## Multimedia

- Commercially produced media
  - If obtained pursuant to a license agreement, terms of license apply
  - No license – the performance of the copyrighted elements of multimedia works may be transmitted in accordance with the provisions of the fair use guidelines



# FAIR USE for Online Courses

Examples of when permission is required

- Commercial uses
  - Fee for supervisory training courses or safety training for corporation's employees
  - Dissemination of recorded courses: An institution offering instruction via distance learning under these guidelines wants to further disseminate the recordings of the course or portions that contain performance of a copyrighted work.
  - Uncontrolled access to classes: An institution wants to offer a course or program that contains the performance of copyrighted works to non-employees/students
  - Use beyond the 15-day limitation



# TEACH Act

Technology Education and  
Copyright Harmonization  
Act (PL 107-237, 2002).



# TEACH Act

- Introduced in 2002, supports the precepts set forth in the Copyright Act.
- Specifically written to protect materials distributed electronically.



# TEACH Act

- Fair use is always an alternative option for educational institutions.
- Teachers and students can use digital materials for teaching if the use is a fair use.
- If the use of digital materials is fair, the institution is not infringing.



# TEACH Act

- First consider whether the use is a fair use or might fit within the TEACH Act.



# TEACH Act

- Allows copyrighted works in digital formats to be digitally transmitted to students in the classroom or in distance learning environments without prior permission from the copyright holder -- *but limited in scope.*



# TEACH Act

- All materials used for display and performance in the classroom must be works that were lawfully made and acquired, or at least one should have every reason to believe that copies are lawful copies.



# TEACH Act

- Teaching must occur in an accredited, non-profit educational institution.
- The use of copyrighted resources must be within the confines of mediated instruction activities, integral to the course.



# TEACH Act

- To take advantage of exemptions, educational institutions must also have in place copyright policies and copyright educational resources that promote lawful use of copyrighted works and are readily available to faculty.



# TEACH Act

- Students should be alerted to the fact that copyrighted works used in courses may be protected by copyright. Label works protected by copyright and include notice of copyright whenever possible.



# TEACH Act

- Educational institutions that transmit digital works must use technological protection measures that reasonable prevent the following:



# TEACH Act –

Instructor/University must *prevent*:

- Retention of the work in accessible form for any time longer than the class session
- Unauthorized further dissemination of the work to others
- The institution must prevent retention or unauthorized distribution of the work.



# TEACH Act

- Educational institutions are required to make a concerted effort to prevent infringements in two ways:
- 1. By educating the educational community about copyright law.
- 2. By using technology to limit the possibility of infringement.



# HOW TO GET COPYRIGHT PERMISSION?

## Course Packs/Print Material:

Get copyright clearance  
and include copyright  
notice on the materials --  
fair use.

Copyright Clearance Center

<http://www.copyright.com/cc/home.do>



# TEACH Act

Want to play a copyrighted  
media more than once?  
Apply to ASCAP, BMI, or  
EMI for digital performance  
rights.

[www.ascap.com](http://www.ascap.com)



# TEACH Act

Want to mount a commercially produced recording on the course Web site? Apply to the National Music Publishers Association through Harry Fox Associates:

[www.songfile.com](http://www.songfile.com)



# RESOURCES

- Know Your Copy Rights

<http://www.knowyourcopyrights.org/>

- Copyright Crash Course (U.Texas at Austin)

<http://www.utsystem.edu/OGC/intellectualproperty/cprtindx.htm>

- TEACH Act Toolkit

<http://www.provost.ncsu.edu/copyright/toolkit/>

