

COPYRIGHTED MATERIALS: THEIR REPRODUCTION AND USE

Use of Copyrighted Materials

SUNY Empire State College complies with the U.S. Copyright Act of 1976 and the Digital Millennium Copyright Act of 1998.

The college respects the intellectual property rights of those who create and/or publish original works of authorship in any tangible medium of expression, whether physical or digital media, and regardless of format or genre. The college, therefore, authorizes use of copyrighted materials only under the following conditions:

- When permission is obtained from the copyright owner, or
- When reproduction, dissemination, creation of derivative works, performance or display of copyrighted materials falls within Fair Use guidelines, which are explained on the library's copyright website (<https://www.esc.edu/library/copyright/>), or
- When performance or display of copyrighted materials in a face-to-face classroom environment falls within Educational Use guidelines.
- When performance or display of copyrighted materials in an online educational environment falls within TEACH act guidelines.

The library has answers to questions about Fair Use, Educational Use, the Digital Millennium Copyright Act and when it is necessary to get permission to use a copyrighted work. **The librarians cannot obtain copyright permission on behalf of faculty, staff or students, and are not qualified to give legal advice.** The bookstore manager can provide information on how to obtain permission.

Using Copyrighted Works Online

Reproduction, dissemination, performance, display and creation of derivative works from copyrighted works **may be** permitted under the Fair Use Exemption of the Copyright Act of 1976, if it passes the Four Factor Test.

Neither the nonprofit status of the college nor the educational nature of the endeavor are sufficient to automatically judge something Fair Use. There is no set guideline for number of words, number of pages or percentage of a total work that can be used.

It should be noted that the online environment reduces or eliminates barriers to unauthorized copying and redistribution of copyrighted works, which means that an online use is less likely to be a Fair Use than the same kind of use in a physical environment. The presence of password protection and/or digital rights management technologies, **may not be** sufficient to consider the use a Fair Use.

In order to decide if a use is Fair Use, the library provides a downloadable worksheet on its Fair Use Helper (<https://www.esc.edu/library/copyright/fair-use/helper/>) web page. You should fill it out in order to help make your decision, and then save the completed worksheet as proof of your good-faith effort to comply with the law.

Making Copies in a Face-to-Face Classroom Setting

Making photocopies or other reproductions of copyrighted works to be distributed to students in a face-to-face classroom **may be** permitted under the Fair Use Exemption of the Copyright Act of 1976, if it passes the Four Factor Test.

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Performance and Display in a Face-to-Face Classroom Setting

Performance and/or display of copyrighted works in a face-to-face classroom is permitted by the Educational Use Exemption of the Copyright Act of 1976.

There are certain restrictions: The college must be accredited and not for profit; the use must be part of teaching and learning, not for entertainment, extracurricular activities or other college business.

As long as those requirements are met, the Educational Use Exemption allows the instructor and/or students to perform musical works, poems, plays or speeches; others to come into the classroom to perform musical works, poems, plays or speeches; display of images, whether in physical or digital media; and playback of audio or video recordings of any kind.

Posting Multimedia in Online Courses Under the TEACH Act

As of January 2014, SUNY Empire State College is TEACH (Technology, Education and Copyright Harmonization) Act compliant. The TEACH Act allows educators to use some copyright protected multimedia materials in online courses without gaining prior permission and/or paying royalties. The content can be an image or audiovisual, but it must not be textual (the written word.) It also cannot be intended for the educational market (such as a video on a CD that accompanies a textbook.) The content can only be posted inside a course in the Learning Management System (Moodle), and only for as long as the students of that course need to have access to it. It must be captioned with the copyright and citation information. If it is nonfictional and nondramatic, there is no limit to the amount that can be posted; however fictional or dramatic content is limited to brief clips. TEACH Act applies only to materials that are posted for learning activities that are analogous to mediated instruction during class time in a face-to-face classroom setting. The TEACH Act must not be used to post materials that are used for research, reading assignments, homework or extra-curricular activities.

For Copyright Information and Help, Consult the Library

Information on copyright can be found on the Copyright Information Resource Center (<https://www.esc.edu/library/copyright/>) web page. Copyright questions can be directed to Librarian@esc.edu.