


Understanding Copyright ©

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Distance Education



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Notice

Note: Much of the information for this presentation has been adapted from the following sources:


<http://www.loc.gov/copyright>
http://www.copyright.lupui.edu/dist_learning.htm
http://www.copyright.lupui.edu/dist_learning.htm_copyright
<http://www.copyright.lupui.edu/fairuse.htm> Fair Use
http://en.wikipedia.org/wiki/TEACH_Act TEACH Act
<http://www.copyright.gov/legislation/dmca.pdf> Digital Millennium Copyright Act
<http://www.utssystem.edu/ogc/intellectualproperty/cprindx.htm#top> University of Texas in Austin
http://www.wellesley.edu/library/copyright_toc.htm Wellesley College in Massachusetts
<http://www.kankakee.edu/faculty/resources/copyright/index.asp> Kankakee Community College in Illinois
<http://publishing.wsu.edu/copyright/Internet.html> Washington State University
<http://copyright.unt.edu> University of North Texas in Denton

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Session Overview

- Institution Objectives
- Copyright Law
 - Copyright
 - Fair Use
 - TEACH Act
 - Digital Millennium Copyright Act
- Faculty, Staff & Student Responsibilities
- Faculty Resources
- Q& A Session



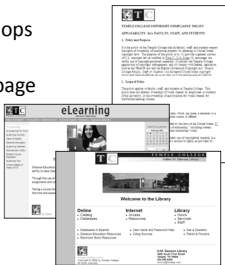
Institution Objectives

- To reduce copyright risk through awareness, education and support
- Educate all content users and disseminators of content about copyright policy, responsibilities and procedures




Supporting Initiatives

- Update Temple College copyright policy
- Conduct training workshops
- Develop copyright web page
 - Policy
 - Resources
 - Tools



Temple College Copyright Policy



- "It is the policy of the Temple College that all faculty, staff, and students respect the rights of ownership of intellectual property by adhering to United States copyright laws. The purpose of this policy is to: (1) provide a general outline of U.S. copyright law as codified in Title 17, U.S. Code; (2) encourage the lawful use of copyright-protected materials; (3) protect the Temple College against risk of copyright infringement; and (4) comply with federal legislation such as the TEACH Act and the Digital Millennium Copyright Act."



Copyright

(1 of 4)

- U.S. Copyright Law (17 U.S.C.). The U.S. Copyright Office, Library of Congress, provides informational brochures on United States copyright law and how it applies to various formats at <http://www.loc.gov/copyright/>
- Actual U.S. Copyright Law is contained in three government documents:
 - Copyright Act of 1976,
 - Digital Millennium Copyright Act, and
 - Technology, Education and Copyright Harmonization Act of 2002






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Copyright

(2 of 4)

- Copyright is a form of legal protection for authors of original works, including literary, dramatic, musical, artistic, and other intellectual products
- Publication is not essential for copyright protection, nor is the well known © symbol
- Gives the owner of copyright the exclusive right to reproduce, prepare derivative works, distribute, publicly perform or display—and to authorize others to do the same
- Copyright laws are both complex and subtle






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Copyright

(3 of 4)

- Copyright Exclusions and Limitations
 - **Section 107: Fair Use**, which applies to activities such as quoting a small portion of a book for the purposes of criticism, comment, teaching, or scholarship, or creating a parody of an artwork; and ... more info on next slide
 - **Section 108: Reproduction by Libraries and Archives**, which applies to such activities as making archival copies, replacing lost or damaged copies, filling patron requests for photocopies, and filling interlibrary loan requests







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Copyright

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- Copyright Exclusions and Limitations
 - **Section 109: First Sale Doctrine**, which permits the lending, giving away, or resale of a physical copy of a work (such as a book or CD), providing the legal justification for lending libraries and used book stores; and
 - **Section 110: Noncommercial Performances and Displays**, which permits certain performances and displays of copyrighted material in a face-to-face classroom, in distance education courses, in churches, restaurants, fairs, and other venues, at charitable functions held by fraternal organizations, and for the benefit of disabled persons

 The TEACH Act updated Section 110 in 2002 and provides an exemption for distance learning courses under specific circumstances







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Fair Use

(1 of 5)

- The doctrine of fair use, in section 107 of the Copyright Act of 1976, addresses the needs of scholars and students by mitigating the rights of copyright ownership.
- Fair use expressed as guidelines rather than explicit rules
- To determine fair use, consider the following four factors:
 1. Purpose of the Use
 2. Nature of the Work Used
 3. Amount of the Work Used
 4. Effect on the Use on the Market

more info ... 






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Fair Use: Rules

(2 of 5)


1. Purpose and character of the Use
 - Whether the copied material will be for nonprofit, educational, or commercial use
 - Teaching, scholarship or research
 - Criticism or comment on a copyrighted work
 - News reporting
2. Nature of the Work Used
 - Special consideration given to the distinction between a creative work and an informational work

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Fair Use: Rules

(3 of 5)




3. Amount, substantiality or portion of Used
 - The proportion of the larger work that is copied and used, and significance of the copied portion
4. Effect on the Use on the Market
 - Most critical factor in determining fair use
 - Serves as the basic principle from which the other three factors are derived
 - If the reproduction of a copyrighted work reduces the potential market, sales & potential profits of the copyright owner, use is unlikely to be Fair Use

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Fair Use: Guidelines

(4 of 5)




- Motion Media
 - Up to 10% or 3 minutes of a source, whichever is less
- Text
 - Up to 10% or 1000 words, whichever is less
 - An entire poem of less than 250 words, not more than 3 poems or excerpts by one poet
 - No more than 5 poems or excerpts from one anthology
- Music, Lyrics, Music Video
 - Up to 10%, not more than 30 seconds total from an individual work

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Fair Use: Guidelines

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- Illustrations, Photographs
 - Not more than 5 images by one artist or photographer.
 - No more than 10% or 15 images, whichever is less, from any single published work
- Photocopying of Printed Materials
 - One chapter from a book
 - One article from a journal issue or newspaper
 - Multiple excerpts from a single book or journal issue (10% or less of the total)
 - A short story, short essay, or short poem
 - A chart, diagram, drawing, graph, cartoon, or picture


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TEACH Act

(1 of 4)




- Technology, Education and Copyright Harmonization Act of 2002
 - Update to the copyright law;
 - Act of United States Congress, signed into law by President Bush on 11/02/02
 - Repeal of the earlier version of Section 110(2)
- Permits teachers and students of accredited, nonprofit educational institutions to transmit performances and displays of copyrighted works without obtaining permission from the copyright holder in certain circumstances for distance education purposes.




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TEACH Act

(2 of 4)




- Enhancements
 - Expanded range of allowed works
 - Expansion of receiving locations
 - Storage of transmitted content
 - Digitizing of analog works
- Allows an instructor to distribute materials online in the quantity and of the character that he or she would otherwise have used during a face to face class.



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TEACH Act

(3 of 4)





- Requirements
 - Must be a government body or an accredited nonprofit educational institution
 - Institute policies regarding copyright
 - Provide informational materials regarding copyright
 - Provide notice to students regarding copyright
 - Transmission of content restricted to students officially enrolled in the course
- Rights of use are often limited to certain works, in limited portions, and only under rigorously defined conditions

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TEACH Act

(4 of 4)



- If conditions are not met, use of the material will have to qualify under fair use or have permission of the copyright holder to be lawful

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Digital Millennium Copyright Act (1 of 2)



- Digital Millennium Copyright Act
 - Enacted in 1998 - implements two 1996 World Intellectual Property Organization (WIPO) treaties
 - Criminalizes production and dissemination of technology, devices, or services that are used to circumvent measures that control access to copyrighted works
 - Increases the penalties for copyright infringement on the Internet

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Digital Millennium Copyright Act (2 of 2)


- Most common violation which occurs in university setting is illegal file sharing, especially of music files
- Students and employees of TC should be aware that if they violate the DMCA either by illegally sharing copyrighted files, or in any other way, they could face severe penalties

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Faculty, Staff & Student Responsibilities (1 of 3)


- Be compliant with TC Copyright Policy
 - *“Temple College Faculty, Staff, or Students who disregard United States copyright policy and these guidelines do so at their own risk and assume all liability”*
- Be mindful of Copyright laws
 - Is the work to be used protected by copyright law?
 - Is your use of the work a fair use?
 - Are there any exceptions which negate the need for permission for the use of the work?
- Document and keep copyright records as proof
 - emails, signed permission letter, etc.



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Faculty, Staff & Student Responsibilities (2 of 3)



- Inform your students of copyright law and their responsibilities
 - *“Temple College Faculty, Staff, or Students who disregard United States copyright policy and these guidelines do so at their own risk and assume all liability”*
- Post or provide “Copyright Notice to Students” in your course(s) as needed
 - Do Not Distribute notification
- Restrict materials to students officially registered in your course(s)



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Faculty & Staff Responsibilities (3 of 3)

- eLearning/Distance Education
 - Obtain document permission from publishers for course cartridges/packs
 - Permissions may vary by publisher or course type
 - Some are free, some are fee-based
 - Obtain permission for any third party materials or use apply the Fair Use rules
 - Post copyright warning messages to students
 - Restrict distribution of materials to students officially enrolled in a specific course





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Distance Education (1 of 2)




- More copyright restrictions apply to distance learning classrooms than to classrooms with face-to-face instruction.
- Transmitted performances of nondramatic literary and musical works and displays of works are permitted in distance education under the following circumstances:
 - The performance or display is directly related to and assists with the teaching content of the transmission.



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Distance Education (2 of 2)



- The transmission is made primarily for reception in classrooms or similar places devoted to instruction
- These exemptions do not apply to the performance of dramatic works or dramatic-musical works; nor would they permit the use of motion pictures or other audiovisual works.
- Schools desiring to transmit copyrighted video, film, audiovisual works, or dramatic-musical works (such as opera or musical comedy) still need to pursue licensing rights.

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Works That Can be Used Freely (1 of 2)



- Some scholarly publications have articles that include a note offering the right to copy for educational purposes
- Some categories of publications are in the public domain; their use is not protected by copyright law:
 - Publications dated 1922 or earlier.
 - Works that do not include a copyright notice and that were first published before January 1, 1978.
 - Most United States government documents.
 - Once a work has acquired public domain status, it is no longer eligible for copyright protection

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Works That Can be Used Freely (2 of 2)




- Economic rights have a time limit - 50 years after the creator's death
 - National law may establish longer time-limits
- Copyright Act of 1790
 - Established U.S. copyright with term of 14 years with 14-year renewal
- Copyright Act of 1976
 - Extended term to either 75 years, or 50 years after the creator's death; also as extended copyright to tangible works, even if unpublished

For more information go to <http://www.wipo.int/copyright/en/faq/faqs.htm>

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The Internet



- Content on the internet is not public domain unless specified
- Assume that any images are copyrighted unless otherwise stated
- Fair use rules apply
- Search for "open source" information sites such as Wikipedia (but be careful)
 - http://en.wikipedia.org/wiki/Main_Page
- Leverage online libraries for licensed software
 - Microsoft Office Online resources

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Photos & Images




- Avoid copying or otherwise using images you find on web pages without permission of the copyright owner
- No copyright notice is necessary on photos or images
- Assume copyright unless otherwise stated
- Do not copy images you believe to be public domain
- Do not copy, modify or display images

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Video


- Can a Temple College-owned video be copied for reserve use?
 - Not unless permission for the copying has been obtained from the copyright owner.
- May a club or other group show a video obtained from a local video store?
 - No. However, many film/video libraries and distributors offer the required "public performance rights" that are included in a higher rental fee.



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Music (1 of 3)


- Music is the most restricted and licensed of all forms of copyright protected works
- Music that can be used in education without permission or license:
 - An original composition and instructor is either the composer or has the composer's permission;
 - Popular recorded music and instructor has the permission of the publisher(s) or copyright owner(s);
 - Used in distance education and instructor complies with all requirements of the TEACH Act;
 - Qualifies under rigorous Fair Use exemption rules; or
 - Copyright has expired or was donated to the Public Domain



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Music (2 of 3)


- To Further Clarify
 - If music is played on a special Web site as part of distance education and otherwise complies with all prerequisites under the TEACH Act, then it will be exempt from the requirement of getting permission or paying licensing fees
 - If music is played live in class for the purpose of education or research, it may be exempt from permission and license fees as Fair Use
 - A majority of the four factors of Fair Use would have to favor fair use so music may have to be edited so that entire songs are not played



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Music (3 of 3)



- Acceptable to record a performance of a work from sheet music not under copyright
 - Instructor performs and records
- Distance Education Courses: Include a "COPYRIGHT NOTICE TO STUDENTS" statement in the assignment
 - "This recording is for the sole purpose of instruction as part of this course offered by Temple College, is solely for Temple College students registered in this course, and is subject to copyright protection law."



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Faculty Resources


- Employee Handbook
- TC Web Site
 - Web Links
 - Resources
 - Permission Letter
 - FAQs
- Professional Development
- Library & Distance Ed. Dept.


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Copyright Tools

- Policy
 - Updated policy in final approval process
 - Current Policy available
- Permission Letter
 - Sample
- Web Site
 - In planning phase




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Web Information Sites (1 of 2) 


- Copyright
 - <http://www.loc.gov/copyright>
- Fair Use
 - <http://www.copyright.iupui.edu/fairuse.htm>
- TEACH Act
 - http://www.copyright.iupui.edu/dist_learning.htm
 - http://en.wikipedia.org/wiki/TEACH_Act
- Digital Millennium Copyright Act
 - <http://www.copyright.gov/legislation/dmca.pdf>
- The Campus Guide to Copyright Compliance
 - <http://www.copyright.com/Services/copyrightoncampus/basics/teach.html>

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Web Information Sites (2 of 2) 

- The Campus Guide to Copyright Compliance
 - <http://www.copyright.com/Services/copyrightoncampus/basics/teach.html>
- Educational Fair Use Guidelines For Distance Learning: The Conference on Fair Use
 - <http://www.utsystem.edu/ogc/intellectualproperty/distguid.htm>

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Q&A Session 

- Questions, comments, discussion
 - brian.stamour@templeic.edu
(254) 298-8388, or
 - Temple College Library



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