



Media Guidelines for Distance Education Courses: Selecting Content and Requesting Video Clips

Developing an online course is an intensive but rewarding undertaking. An instructor new to the process may not foresee some of the copyright and technical challenges to teaching online. Consequently, the University Libraries (UL) and ITU's Division of Instructional Technology (DoIT) offer specialized assistance to acquire materials to be integrated into a course, design the course, and deliver the content online.

This document provides Mason faculty with step-by-step guidelines to

- determine whether the University Libraries owns, has license to, or can purchase desired media content,
- apply fair use copyright principles when selecting media content to be used for pedagogical purposes but, in the case of video, unavailable for purchase in a streaming format,
- submit a request for clips to be created and streamed by library staff for instructional purposes, and
- access the streamed clips in Blackboard.

Copyright and DE

One of the challenges for instructors is the transition from face-to-face instruction to asynchronous, remote instruction. Current U. S. copyright law (17U.S.C.) imposes few restrictions on the use of in-copyright content in face-to-face instruction, whereas greater protection is legislated for use of the same content in an online or distance education setting. Generally, these restrictions stem from copyright holders' concerns about widespread, unfettered distribution of their work via the Internet. Many interpret this usurped control over the distribution of their content and the associated loss of revenue as violations of rights protected by law.

Copyright law has not kept pace with the rapid changes in technology that allow greater access to and use of content by all who have Internet connectivity. Nevertheless, it is a law that the University community must abide by.

One could argue that there is a plethora of material available to use in online course instruction. However, much of this content is subject, explicitly or implicitly, to an "All rights reserved" copyright. Even if there is no clear indication who owns the material you want to use, it is less risky, for you and the University, to assume the work is owned by *somebody*.

Alternatives to highly restrictive copyrighted works are those that are in the public domain and those protected by Creative Commons licenses.

Public Domain

Works that are no longer or have never been in copyright are in the public domain. This means the material is free to use for any purpose—commercial or non-commercial. An item may be copied, distributed, performed, or have derivative works made from it. For example, U.S. government documents and publications created by federal employees are works in the public domain. However, appropriate credit *must* (and should) be provided for these items even if they are not protected by copyright.

Creative Commons

An author may choose to publish his/her work online using a Creative Commons (CC) license, which lets users know exactly what they can and can't do with the content. The author retains the copyright and the license specifies the terms of use.

There are six possible combinations of CC licenses, all of which require proper attribution to the copyright holder. Different types of use are possible, depending on the license selected. See <http://creativecommons.org/> for a description of each type of license.

STEP 1: Finding Video Content

Typically, an instructor identifies video titles of interest and works with library staff to determine whether access to that content is attainable. If you find streaming content via the Internet and want to use it in your class, link to it. Linking to in-copyright content is not a violation of the law. Keep in mind, however, that links break, so review your DE course periodically to check and replace links, as needed.

Here are some sources for free CC video clips that can be linked to or embedded in an online course. Search directly in www.search.creativecommons.org to find content easily. Take a look at the [Find Media](#) page in the Distance Education Library Services to Faculty InfoGuide for additional help in locating open source or proprietary film content for your class.

Provide a list of proprietary content you would like to incorporate in your DE course to the Distance Education Librarian and your DoIT Instructional Designer, as soon as possible. The more time library staff have to search for and purchase, if possible, the desired videos the better. Clearly indicate on this list any titles for which there are no substitutes. Additionally, be prepared with a list of alternative works to draw from in the event a title is unavailable or beyond library resources. Sometimes the material you want will be unobtainable because of price or availability in an

unusable format. In these cases, library staff will assist you with identifying alternative titles.

Many feature films are available in streaming format through commercial providers; however, these providers usually do not sell streaming versions to institutions, such as libraries. On the other hand, documentaries and educational films are often available in this format and may be purchased by libraries.

In the event the UL cannot purchase streaming rights to a feature film, the Distance Education Office may purchase a temporary streaming license through SWANK, a film distributor. If you have not yet submitted your proposal to the DE Office, please include a request for necessary licenses. If you have already submitted your proposal, contact the Administrative Assistant to the Associate Provost of DE to discuss this option.

Should you require your students to screen entire feature films, consider these options. Students may subscribe to Netflix or another media provider for the semester; alternatively or in addition to, you may put the DVD on reserve in the library. A media subscription account parallels a required textbook for a course that relies heavily on media.

STEP 2: Assessing Fair Use of Video Content

Several options are available to help you decide whether your use may be a fair use of copyrighted video content. You may contact the university's Copyright Resources Office (copyright@gmu.edu), complete a Fair Use Checklist (see attached), and/or read the [*Code of Best Practices in Fair Use for Academic and Research Libraries*](#) for guidance in making your decisions about fair use.

Briefly, fair use is an exception (Section 107) in U. S. copyright law (17 U.S.C.) that allows individuals to use in-copyright content for limited purposes without seeking permission from or making payment to the copyright holder. To provide a fair use defense, however, you must thoughtfully assess four separate but equally important factors.

Factor 1 How do you plan to use the content? In this discussion, the use of videos will always be for educational, non-commercial purposes, which support a fair use decision. Does your use transform the content from its original purpose in some way? Transformation is often a critical component of this factor.

Factor 2 What is the nature of the work? The videos you select may be documentaries or mainstream entertainment. The more creative a work, the more it is protected by copyright law. That is, a non-fiction documentary is generally considered to be "less creative" than a purely fictional work. Therefore, the former garners more weight in favor of a fair use.

Factor 3 How much of the work do you need to use in order to illustrate or underscore important pedagogical concepts to your students? Quantity is always a sticky piece of fair use because there is no language in U.S. copyright law that dictates how much may legally be used. Be clear and precise about the quantity you need for educational purposes. Less is better than more, if the amount meets your instructional goals.

The law states that users must consider not only the amount but also the substantiality of the portion used. This means the central element or “heart of the work” has greater protection within the whole. Substantiality should be considered concurrently with the amount used when you conduct your fair use analysis.

Factor 4 How does your use impact the value of, or potential market for, a copyrighted work? The U.S. Supreme Court has generally held that this factor is the most important to assessing whether a use purported to be a fair use is a copyright violation. If the content you need is available in streaming format, it must be purchased. Fair use will not apply.

The University Libraries recommends you complete a fair use checklist for all in-copyright video clips you plan to use in your online course, particularly for clips consisting of over 20% of the total video. In the latter case, a discussion with the University’s Copyright Officer is required, as well as a completed checklist. This checklist serves to illustrate how you arrived at a decision in favor of fair use, in the event you are asked by a court of law. Remember, you are accountable for the content in your online course.

In summary, claiming a fair use of copyright protected content is an exception to the law that the higher education community should exercise vigorously and wisely.

STEP 3: Submitting a Streaming Video Clips Form

Timeliness is essential to securing the video content you need for your online course. As soon as the titles on a video list have been identified as owned/ordered by the University Libraries, or identified as already available streaming through a database, the instructor of record for a particular class must complete and submit an online Streaming Video Clips Request form (see the form). This document serves as the formal record for each of the clips to be made by Media e-reserves staff. **Once submitted, the request may not be modified without speaking to the Distance Education Librarian.** Instructors may check on the status of a request here.

Because several people are involved in clip production, and the status of each clip request varies, a separate form for each is required. Most of the form will auto-fill after the first has been created, except for the video title, catalog number, and associated time sequence(s) fields.

If a title is already available in streaming format through a subscription database, your students have immediate access to that film via the catalog or database. Clips made from a DVD that must be ordered and cataloged will obviously require more time to complete.

STEP 4: Finding Images

Photographs, tables, charts, drawings, and other images offer the online student a visual context that is pleasing and instructive. Like video clips, images incorporated into an online course must also serve a pedagogical purpose and a fair use assessment is applicable. Unlike clips, ownership of images may be more difficult to identify. Assume that all images are in-copyright unless you see an explicit statement to the contrary.

Attribution must be provided for *every* image used. Refer to [ArtStor Help](#) for citation elements and the [Purdue Online Writing Lab](#) for examples of citation style guides.

Subscription databases, like these listed below, contain licensed image content available to Mason faculty, staff, and students. Access a database through the University Libraries' database portal (see the [Find Images](#) page in the Distance Education Library Services to Faculty InfoGuide). Ensure that your use is allowed, as defined by the license.

ARTstor	Oxford Art Online Images
AP Images	Biology Image Library
ScienceDirect	Art Images for College Teaching

Public domain image content, source examples:

Public Domain Sherpa <http://www.publicdomainsherpa.com/public-domain-photographs.html>

U.S. Government Photos and Images <http://www.usa.gov/Topics/Graphics.shtml>

Flickr: Public Domain <http://www.flickr.com/groups/publicdomain/>

Image Collections & Online Art <http://www.umich.edu/~motherha/images.html>

Creative Commons images, art and graphics; search directly in www.search.creativecommons.org to find open source content easily in the following web sites:

Europeana	Google Images
Flickr	Open Clip Art Library
Fotopedia	

For assistance with any aspect of finding media content or completing the streaming video clips request form, please contact the University Libraries' Distance Education Librarian. The DE Librarian will guide you to appropriate University Libraries staff, in the event you need specialized assistance.

© 2012 Claudia Holland and Tina Adams



This work is licensed under a [Creative Commons Attribution-ShareAlike 4.0 International License](https://creativecommons.org/licenses/by-sa/4.0/).