

## Use of Copyrighted Work in Online Courses

Online transmission of course content that includes display and performance of copyrighted works is governed by the federal TEACH (Technology, Education and Copyright Harmonization) Act. TEACH allows an accredited, nonprofit educational institution to transmit performances and displays of copyrighted works as part of a course *without prior permission from copyright holders* if certain conditions are met. If these conditions are not or cannot be met, the copyrighted material may be used only if it qualifies as a “fair use” or prior permission from the copyright holders has been obtained. Works which are in the public domain may be used freely.

Helpful information regarding TEACH is found at the following site:

<http://www.lib.ncsu.edu/scc/legislative/teachkit/>. An additional resource which is specific to Messiah College is “Copyright Guidelines for Showing Movies and Other Audiovisual Works,” which may be found at [http://www.messiah.edu/offices/its/media\\_services/](http://www.messiah.edu/offices/its/media_services/).

TEACH allows the use in online course content of the following works **without** prior permission:

- Performance of an entire non-dramatic literary or musical work (a poetry reading or performance of a string quartet);
- Performance of a reasonable and limited amount of any other work (e.g. a scene from a feature dramatic film or musical comedy);
- Display of any other work in an amount comparable to that displayed in a live class (e.g. photos of sculpture or paintings).

**It is important to remember that, in order to transmit an *entire* dramatic literary or musical work (e.g. feature film, opera, musical comedy) which is not in the public domain, the instructor must have:**

- **prior permission of the copyright holder or**
- **public performance rights (PPR) for the work.**

**Faculty members should contact Academic Technology Services to help them ascertain whether the College holds PPR for a copyrighted work in our collection. Assistance in requesting permission from a copyright holder through the copyright clearance process is available from Faculty Services.**

Faculty members are responsible to assure that the copyrighted work being displayed is

- Used at the direction of or under the supervision of the course instructor,
- An integral part of a class session,
- Part of systematic, mediated instructional activity,
- Directly related and of material assistance to the teaching of the course,
- Not a copy which s/he knows or should reasonably know was made or acquired illegally, and
- Not produced by someone else primarily for performance or display as part of instructional activities transmitted via digital networks.

Explanations of these TEACH requirements are found on the attached chart, which is used by permission of The Society for Cinema and Media Studies.

TEACH requires that we provide notice to students that materials used in connection with the course may be subject to copyright protection. The following wording is suggested:

The materials on this course Web site are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated.

TEACH also requires that technical safeguards (“downstream controls”) be in place before copyrighted works can legally be transmitted as a part of online courses. To satisfy the law, we are obliged to use reasonable measures to prevent students from saving, copying, or further disseminating (i.e. sharing) the material.

Among possible safeguards are:

- Password protection of copyrighted material so that only students enrolled in the online course have access; and
- Limitation of the time that the material is posted to a site; and
- Streaming of video; and
- Use of HTML coding to prevent downloading and copying.

In order to avoid the complexities of complying with TEACH when a course requires that students view an entire work, it may be advisable to require that students obtain and watch the work on their own. Many DVDs are available online with closed captioning at <http://www.amazon.com/> or <http://www.netflix.com/Register>. Instructors should post in the course syllabus and on the Web that acquisition and viewing of the work by the student is a requirement of the course.

Faculty members also may create their own videos for course use. Contact Keith Drahn, Director of Disability Services, to obtain assistance creating a transcript of the video for ADA compliance. VHS copies must be digitized by Academic Technology Services. Please note that there is a fee to reformat VHS into a DVD - digital copy.

If a work cannot be purchased or otherwise acquired by students and the College’s available copy is in the VHS format, we are required by TEACH to make an effort to acquire a digital version of the work. If no digital version is available or the available digital version is technologically protected to prevent TEACH uses, we are permitted to reformat the work ourselves (Academic Technology Services) into digital format. **In any event, the TEACH rules stated above will apply to the use of the work as a part of an online course.**