

FACULTY GUIDE

TO INTELLECTUAL PROPERTY AND COPYRIGHT ISSUES

Included in this guide: Page one provides general information about Intellectual Property and Copyright Issues. The second and third pages describe issues associated with the various media used in classrooms and guidelines for distribution. Page three also includes contact information for appropriate offices on campus to direct questions to. Page four addresses the issue of accessibility for individuals with disabilities in the classroom and provides a chart of accommodations to consider.

TIPS TO THINK ABOUT

- ◆ If you are publishing your own course materials, please still provide the bookstore with the publication information, as required by the Textbook ACCESS Act.
- ◆ Certain grants restrict the use of the intellectual property generated by their fulfillment.
- ◆ If you have generated a patentable invention, see a patent attorney as soon as possible.

GENERAL GUIDELINES

- ◆ Materials provided to students electronically should be password protected and only available to students enrolled in your course.
- ◆ Provide full attribution for materials.
- ◆ For materials made available electronically, place language like this on the course page:

“The materials on this course web site may be subject to copyright law. Only students enrolled in this course for purposes associated with this course may use the materials. The materials may not be retained or disseminated.”

The latest fair use guidelines from the American Research Librarians can be found at:

<http://www.arl.org/pp/ppcopyright/codefairuse/index.shtml>

MULTIPLE COPIES

FOR CLASSROOM USE

Multiple copies (not to exceed more than one copy per student in a course) may be made if:

- A. The copying meets the tests of brevity and spontaneity as defined in definitions &
- B. Meets the cumulative effect test as defined; and,
- C. Each copy includes a notice of copyright.

WHAT DO TO WHEN COPYING OR ELECTRONIC DISTRIBUTION

NEEDS EXCEED WHAT IS ALLOWED

1. Check and see if your materials are licensed by the Library, which provides access to books, journals, and educational materials in electronic formats. <http://library.niagara.edu/research/>
2. Contact the publisher or copyright holder for permission.
3. Use resources that are licensed by the Library, which provides access to books, journals, and educational media in electronic format.

Contact David Schoen for more information at schoen@niagara.edu.

Media	<p align="center">Generally Accepted Guidelines</p> <p>Please remember these are only guidelines. If you have any question about whether use of material is Fair Use please contact the appropriate office from the Who to Contact section of the guide.</p>	Cautions
Textbook	<p>A single chapter up to about 10% of the length of the textbook is usually ok.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>Avoid creating a de facto textbook by copying multiple chapters from different textbooks.</p> <p>Avoid copying consumables.</p> <p>For example, if it is usually not appropriate to copy a test or questionnaire that is designed to be filled out and scored.</p>
Fiction or Non-Fiction Book	<p>A single chapter up to about 10% of the length of the book is usually ok.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>The portion used should not be central or significant to the entire work.</p> <p>For example, let's say that a book consisted of a twenty page story followed by 200 pages of commentary. Copying the entire story is probably inappropriate because it is the core of the book.</p>
Poem	<p>Generally speaking, it is ok to copy a complete poem if it is less than 250 words or if it is an excerpt of not more than 250 words from a longer poem.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>Not more than one short poem or two excerpts should be copied from the same author.</p>
Play	<p>A portion up to 10% of the play is usually ok.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>It is not ok to copy a portion of a play for production.</p>
Short Story	<p>A complete article, story, or essay if less than 2,500 words or an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>Not more than one short story or two excerpts should be copied from the same author.</p>
Video-Clip from the Internet	<p>If not in the public domain, link to it.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>Avoid linking to content that may have been pirated.</p>
Video, DVD, or VHS	<p>17 U.S.C. § 110(1) permits "the performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction..."</p> <p>This applies to showing of entire films and also to those that involve less extensive clips from one or several sources.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>Limitations: Applies only to face-to-face teaching activities in a physical classroom, not distance education.</p>
Streaming video to students	<p>Streaming commercially published film to students remotely should be limited to "reasonable and limited portions."</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>Streaming video is tricky from a legal perspective. Software can extract clips, but it is illegal to circumvent copy protections on DVDs.</p> <p>Consider using streaming video licensed by the library: http://library.niagara.edu/research/video</p> <p>If you have deemed use of a video as Fair Use and need help putting the file on Blackboard, submit a Service Request to the Information Technology (IT) department via MyNU.</p>
Periodical Article in Hard Copy	<p>Generally speaking is ok to copy a single article from a periodical issue.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>Avoid creating de facto course packs of multiple articles.</p> <p>Avoid systematic copying from the same periodical title, even if from different issues. In such cases, consider linking to articles licensed through library databases: http://library.niagara.edu/research/articles-databases/</p>

Media	Generally Accepted Guidelines Continued Please remember these are only guidelines. If you have any question about whether use of material is Fair Use please contact the appropriate office from the Who to Contact section of the guide.	Cautions
Audio—Clip from the Internet	<p>If no in the public domain, link to it.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	Avoid linking to content that may have been pirated.
Audio—CD or Purchased Digital Audio (MP3, MP4 ect.)	<p>You can play CDs in a physical classroom as long as it is related to instruction and you own a legal copy of what you are playing,</p> <p>Copyright law does not provide permission to convert musical formats (CDs to MP3s).</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	Streaming audio remotely to students is tricky. But a single audio clip from an alum is usually ok to stream as long as it is password protected and limited to the students enrolled in your course.
Sheet Music	<p>An instructor can make copies of excerpts of sheet music or other printed works, provided that the excerpts do not constitute a “performable unit,” such as a whole song, section, movement, or aria.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	In no case can more than 10% of a whole work be copied.
Digital Images of Art or Architecture	<p>The law isn’t clear regarding images. A limited number of images can usually be defined as “fair use”.</p> <p><i>This Fair Use guideline may only apply if you are using the material for purposes of commentary and criticism, and if your selection does not supplant what would have been a purchase of the original.</i></p>	<p>To share images with students via BlackBoard, you should own a legal copy of the source of the images and take reasonable measures to ensure that students do not redistribute images.</p> <p>This includes things like:</p> <ul style="list-style-type: none"> Informing students the materials are copyrighted. Watermarking the images. Restricting print capabilities. Restricting the ability to copy and paste the images. Provide lower resolution images that would not look good printed. <p>Exercise caution in downloading images from the Internet, as these images may have been posted without permission of the copyright holder.</p>

WHO TO CONTACT

- ◆ Faculty own their work; please consult a private attorney to obtain guidance protecting it. See pages 117-125 in the Faculty Contract for exceptions. [General Counsel’s Office](#)
- ◆ Students own their work, even if they are collaborating with faculty; for direction on working with students, contact the [Associate VP for Academic Affairs](#).
- ◆ Online instructors seeking direction on the use of streaming content should contact [Instructional Support](#).
- ◆ Faculty seeking guidance on duplicating excerpts of copyrighted work should seek guidance from the [Director of Libraries](#).
- ◆ Faculty seeking guidance on making materials accessible to students with disabilities should contact the [Academic Support Office](#) or visit the Niagara University [Disability Services website](#).

ACCESSIBLE TECHNOLOGY USE

ACCESSIBLE AND ASSISTIVE TECHNOLOGY

Accessible technology is technology which has been designed to provide an environment and / or infrastructure that individuals with a variety of disabilities can use. Disabilities may include perceptual, motor, cognitive, learning, or print-related disabilities. In addition, some individuals may rely on various types of assistive technology, including hardware and software, which allows them to use technology.

Please see the Accessible and Assistive Technology chart for examples.

Disability	Challenges Using Technology	Accessible Technology:	Assistive Technology:
Perceptual	<ul style="list-style-type: none"> ◆ Difficulty hearing multimedia presentations ◆ Difficulty hearing sounds ◆ Difficulty hearing alerts ◆ Difficulty hearing music 	<p>The technology environment or infrastructure provided by the university including web sites, hardware, software, documents, etc.</p> <ul style="list-style-type: none"> ◆ Captioned videos ◆ Transcripts of videos ◆ Ease of operating basic controls (e.g. on/off and volume controls) ◆ Ease of navigating to, from, and within available functions of the technology (e.g. programs, files, folders, etc.) 	<p>Hardware/software that individuals with disabilities use in order to access a variety of technology environments.</p>
Fine Motor	<ul style="list-style-type: none"> ◆ Difficulty using a mouse ◆ Slow response time 	<ul style="list-style-type: none"> ◆ Ease of operating basic controls (e.g. on/off and volume controls) ◆ Ease of navigating to, from and within available functions of the technology (e.g. programs, files, folders, etc.) 	<ul style="list-style-type: none"> ◆ Alternative keyboards ◆ Pointing devices
Cognitive / Learning	<ul style="list-style-type: none"> ◆ Difficulty reading ◆ Difficulty writing ◆ Distractibility ◆ Longer processing time needed ◆ Limited fine motor control and difficulty typing 	<ul style="list-style-type: none"> ◆ Captioned videos ◆ Listen to an audio playback of electronic text if needed ◆ Ease of operating basic controls (e.g. on/off and volume controls) ◆ Ease of navigating to, from, and within available functions of the technology (e.g. programs, files, folders, etc.) 	<ul style="list-style-type: none"> ◆ Screen readers
Print Impairment	<ul style="list-style-type: none"> ◆ Difficulty navigating and understanding visual images on a screen ◆ Difficulty adjusting font size ◆ Difficulty adjusting color/contrast ◆ Difficulty accessing print due to poor web page design, inaccessible PDF's etc. 	<ul style="list-style-type: none"> ◆ Graphics and images identified using text in all technology environments including website, Power Point slides, documents, etc. ◆ Listen to an audio playback of electronic text if needed ◆ Ease of operating basic controls (e.g. on/off and volume controls) ◆ Ease of navigating to, from, and within available functions of the technology (e.g. programs, files, folders, etc.) ◆ Accessible PDF's: documents that are created that are not just scanned images of text or graphics. The person using the PDF needs to be able to use a screen reader to access the document. To learn more about accessible PDF's, please go to: http://office.microsoft.com/en-us/excel-help/create-accessible-pdfs-HA102478227.aspx?CTT=1 http://webaim.org/techniques/acrobat/ 	<ul style="list-style-type: none"> ◆ Keyboard-only access ◆ Text to speech software that is controlled by keystrokes only ◆ Refreshable Braille displays

Digital copies of this Faculty Guide are available on the Instructional Support and Library websites.