The University of Alabama CCS Instructional Design Team
Guidelines for Use of Copyrighted Material

In an effort to comply with federal laws related to the use of copyrighted materials in online courses, the University of Alabama CCS (College of Continuing Studies) Instructional Design Team will comply with the following practices/guidelines:

- All works created by faculty working in partnership with CCS will be licensed according to the terms of a Memorandum of Understanding which is signed by the appropriate faculty member and other representatives of the University Community.
- The instructional design team with help from support personnel will seek permission to use any copyrighted work not covered by the terms of the standard MOU. Faculty who sign an MOU with the College of Continuing Studies will be given a copy of The University of Alabama CCS Instructional Design Team Guidelines for Use of Copyrighted Material and must agree to abide by these guidelines.
  - If the owner of the work cannot be located, refuses permission to use the material or will not respond to repeated attempts to license the work, the instructional designer will not facilitate access to the work through the course, unless the principles of fair use or the provisions of the TEACH Act allow for such use.
  - Subject to approval, CCS will pay licensing fees and track limits on use of the work.

Posting Course Materials Online – Instructional materials may be posted to Blackboard Learn under any of the following circumstances, as detailed more fully below.

- The instructor is the copyright owner, or
- The material is made available by linking to material on an existing website, or
- The copyright owner grants permission to use the work (to include recorded guest speakers), or
- The material is in the public domain, or
- The use is within “fair use” under the law, or
- The use is within another statutory exception.

**Fair Use**
Section 107 of the U.S. Copyright Act states that the following four factors are significant in the determination of fair use:

- the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- the nature of the copyrighted work;
- the amount and substantiability of the portion used in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market for or value of the copyrighted work.

In light of these four factors, the CCS Instructional Design team will adhere to the following guidelines:
Non-fiction (biography, memoir, editorial, newspaper, periodical, textbook, etc.):
- Works with fewer than 10 Chapters (or No Chapters)
  - Can use up to 10% of the work as long as it is not the “heart of the work.”
- Works with 10 or more Chapters
  - Can use 1 full chapter (or equivalent) as long as it is not the “heart of the work.”
  - Excerpts may be from more than one chapter, but the total number of pages cannot exceed the average chapter length.
- Textbooks
  - No portion of a textbook may be used because the effect of the use upon the potential market would be considered substantial. If a textbook is adopted for use in a course and is purchased by students, then reference should be made to the text rather than including in an online format.
  - Supplemental materials provided for instructor use can only be used if the textbook is the adopted textbook for the class. Use of supplemental materials for a textbook or edition not adopted for use within the class does not fall within fair use.
- Journal Articles
  - May be used if available through The University of Alabama Library’s digital collections.
  - Articles may be included in the course files. If an article is not available through the Library, then permission must be obtained before any portion of the article can be used. During MOU renewal, ID should ensure the continued availability of the article through University Libraries. If the article is no longer available, then the article must be removed from the course files or permission to use obtained from the copyright holder.

Fiction (novel, short story, poetry, satire, adaptation, etc.):
- Work is in the public domain according to the U.S. Copyright Act.
- Link to work elsewhere online

Photographs/Illustration:
- Your original work
- Provided with the textbook that has been adopted for your class.
- Work is in the public domain according to the U.S. Copyright Act

Audio/Video:
- Link to audio/video on non-UA server
- Find Alternative
  - Create your own
  - Find another video that is comparable

Transformative Works:
- According to transformativeworks.org, “a transformative work takes something extant and turns it into something with a new purpose, sensibility, or mode of expression. Transformative works include but are not limited to fanfiction, real person fiction, fan vids, and fan art.”
- If a work is considered a transformative work, it may be used if:
the content expert or designer is the creator of the work, or

permission to use the work has been obtained from the copyright owner

The TEACH Act
The TEACH Act allows for the use of copyrighted content in online courses under certain conditions, including:

- The material must have been lawfully made or acquired
- The use must be an integral part of the class session
- For motion pictures, the use is limited to “reasonable and limited” portion of the work
- Technological controls must be in place to control access, downstream uses, and time of access

If Fair Use or the TEACH Act Do Not Apply:

Fiction and Non-fiction:
Seek permission. Once permission to use a copyrighted work is obtained, instructional designers will place the work (or link to it) in a time-limited folder in the learning management system so student access to the work ceases upon conclusion of the enrolled semester.

Audio/Video:
- Get explicit written permission for distribution of content in digital web format. Ownership of physical media (DVD, VHS, etc.), regardless of private/public performance license, does not imply license to deliver via digital web format.
- Use CCS Approved Video Vendor (e.g. Swank)
- Otherwise, can’t use at all

Photographs:
- Get Permission
- Use CCS Approved Image Vendor (e.g. Thinkstock)