



IMPROVING ONLINE TEACHING EXPERIENCE

CHSS Online Teaching Initiative Newsletter

Volume 2 Issue 2

May 10, 2021

IN THIS ISSUE:

Copyright Considerations for Instructors

Most of us use external materials in teaching. We assign articles, chapters, and movies for students to watch and provide government reports and statistical data that students can use in their research and study. Most of us are aware that we can use these materials if it is “fair use,” “a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances” ([U.S. Copyright Office](#)). Those circumstances include “criticism, comment, news reporting, teaching, scholarship, and research” ([U.S. Copyright Office](#)). At the same time, one has to be mindful of certain considerations and limitations of the meaning of fair use to avoid any potential legal liability.

In 2008, three publishers (Cambridge University Press, Oxford University Press, and Sage Publications, Inc.) filed [a lawsuit against Georgia State University](#) (GSU) alleging copyright infringement when the university published digital copies of the publishers’ materials in its electronic reserves for students to view without paying the publishers. Although the university insisted on the fair use provisions of the copyright law, in 2012, the District Court ruled that GSU indeed violated the copyright law in five instances (out of 74). At the same time, the court did not find evidence that the university operated in bad faith and for personal profit.

Traditionally, four factors are used to determine fair use:

- the purpose of the use: “[educational and noncommercial uses](#)” are acceptable; “transformative uses” (adding or changing elements) are better suited to justify fair use;
- the nature of the work: one is on weaker ground when using a creative work and claiming fair use than when using a nonfiction publication;
- the amount of the work used: in determining fair use, both the quantity and quality of the used work are considered; and
- the effect of its use on the publishers’ profit ([Storch, 2014](#); [U.S. Copyright Office](#)).

Originally, in the case with GSU, District Court Judge Orinda Evans tried to simplify the fair use assessment by suggesting that 10% of a book or one chapter from a book would qualify as fair use. This is what most of us probably assume. However, the Appeals Court rejected such an approach and reinstated the case-by-case, holistic analysis of each individual instance of potential infringement that might affect the publishers’ bottom line. The ruling brought us back to the murky waters of copyright complexities that very few of us can navigate.

Copyright Considerations for Instructors

This article discusses certain copyright considerations for instructors who use external copyrighted materials in teaching.

Pages 1-2

Lessons Learned from the Pandemic: Instructor Reflections

The section presents faculty’s reflections on teaching during the pandemic.

Pages 2-3

The good news is that, with the case filed against GSU, the publishers only sought corrective actions from the university and not monetary compensation. This case serves as a reminder that we need to be mindful of how we use published materials in teaching. Current interpretations and rulings on fair use cases do not guarantee that any specific amount of copyrighted materials is “safe” to use, at least not without a clear justification for fair use and a solid understanding of its potential impact on the publishers.

Here is an example of a situation that some of us may be familiar with: an instructor provides a scanned copy of an initial chapter(s) from the textbook for students at the beginning of the semester. Students are required to purchase the textbook for the class. The chapter(s) are provided for students to ensure that they have access to the materials while they are in the process of ordering the textbook. The instructor is using copyrighted materials without the publisher’s permission, but the fact that the textbook is required for the course ensures that the use of the scanned chapter(s) does not affect the publisher’s profit.

As educators, we strive to provide our students with the best resources and learning opportunities, yet we are also mindful of the cost of higher education. The UHD Library offers opportunities for faculty to purchase materials in paper and electronic formats. In fact, at this point, we have access to a good number of [ebooks](#) through the library, as well as many links to [Open Educational Resources](#). These are always a safer bet to avoid any potential violation. In addition, the library offers [a copyright guide](#) for faculty and staff and can assist you with your questions about fair use.

If you would like to learn more on the topic, the Online Learning Consortium offers a number of workshops educating faculty about the U.S. copyright law and fair use as they apply to the work of the institutions of higher education. To learn more about forthcoming trainings, visit their [website](#). These workshops offer opportunities for faculty to ask questions about the specific uses of copyrighted materials in their disciplines.

Lessons Learned from the Pandemic: Instructor Reflections

It has been a year since the start of the pandemic that has affected all of us in the college, our families, in addition to the students and their families. The vaccinations against the virus are readily available for all through the university and the neighborhood grocery and drug stores. With about 30% of the U.S. population fully vaccinated at the end of April, we are on track to fully reopen the university in the fall. Many of us will return to teaching face-to-face welcoming students back to classrooms and hallways. Most likely, regular travel will resume in the summer in the U.S. allowing for face-to-face participation in national and international conferences. We do not know for sure what the fall will bring us with a possibility of virus mutations, but we all have a much better understanding of what is possible and impossible via virtual platforms.

If indeed with the administration of the vaccines, the pandemic is now manageable, what lessons have we learned about our profession and ourselves during these difficult times? Here are reflections from some of the faculty in the college:

Theresa Case, Associate Professor of History: “Looking back at the official historical record of my teaching in March and April 2020, I find that my BBL announcements are reassuring and unrattled and that viable online classes quickly took shape to replace my face-to-face ones. As was doubtless the case for all of us, the real story was far messier and chaotic. For weeks after UHD closed, I quarantined myself from my teenagers because I felt ill, so I ran both my household and my classes from a single room, remotely, without much sense as to whether I was having any positive effect. Meanwhile, the world seemed to be spinning out of control. Pandemic teaching compelled me to manage uncertainty on a scale that I have never experienced before.”

Mark Cervenka, Professor of Art: “Zoom teaching and gallery discussions, meetings, grocery shopping, curbside pickups all converged through the tiny ethernet cable I ran to my backyard art studio. Split in half, with still room to make art, the computer screen has been ever-present. Despite not seeing many friends, family and colleagues for a year, I’ve found digital connections to be a nice and calming if not completely satisfying. Fundamentally, however, in the absent of in person teaching studio demonstrations I have lamented the nuanced sometimes

happenstance conversations one can have with students in a classroom that often provide great learning opportunities.”

Adam Ellwanger, Professor of English: “Life and work during the pandemic have been educational. Given that about 99% of those infected by the virus survive it, I was deeply disturbed to watch as the crisis was instrumentalized in order to advance various socio-political objectives. Over the course of 14 months, ‘Two weeks to flatten the curve’ gave way to ‘Wear two masks even if you’ve been vaccinated.’ While I mourn all of our losses over the past year, more than anything I lament for my students and my children, most of whom have needlessly lost a year of youthful freedom which cannot be returned to them.”

Paul Fortunato, Associate Professor of English: “I feel so horribly for the students. Many of them had to take their classes in terrible situations, wrestling with other family members for a place to work, for wifi, and for a working computer (or phone). For me, this year was just a matter of getting past it. I’m not convinced that we were able to deliver quality teaching and quality materials in this rushed, panic-driven fashion. I did a daily zoom ‘writing practice session’ for 15 minutes a day, and several students seemed to really benefit from that. We would set a timer for 7 or 8 minutes, and then ‘free write’ for the time, trying to fill up a page. Students could do a draft of an assignment, or they could just vent their random thoughts. People reported that they found this daily check-in very helpful.”

Natalia Matveeva, Associate Professor of Communication Studies: “I do not remember much of last year, so my thoughts are fragmented. My 2-year old visited a grocery store a few days ago for the first time in her life. She asked me, ‘Mom, what is this?’ One of my students lost a parent, and one got COVID during the semester. Almost all my relatives abroad got sick with COVID, but survived. Two (my age) spent a couple of weeks in the hospital, which was scary. We were lucky to get vaccines in the spring in the U.S. Thanks, God! It seems the rest of the world is just going through the waves of infection. It is as surreal as it could be. This time was the closest I have ever been to my family. My small kids know what a pandemic is and how to wear a mask.”

Laura Ruth Parker, Assistant Professor of Psychology: “Teaching in the pandemic has been incredibly challenging but has also been an opportunity for growth. I’ve altered my courses to foster greater autonomy for students. I now offer even more opportunities for student choice and flexibility. I plan to keep these changes when we return to campus in the Fall.”

John Rountree, Assistant Professor of Communication Studies: “As a second year Assistant Professor, I have now taught at UHD longer during the pandemic than during a period of normalcy. I barely had a chance to get to know our UHD community in person in fall 2019 and briefly in spring 2020 before being thrust into lockdowns and Zoom meetings. It feels a bit like waiting for a delayed flight. I look forward to those in-person experiences that are fundamental to building relationships with my co-workers, whether it is lunch outings downtown, unscheduled encounters with colleagues in the hallway, or side-chats before a faculty meeting starts.”

This past year was very stressful, tragic, and scary for many, but it seems all of us have learned something new about ourselves, our profession, and the larger society.

Newsletter Contributors and Reviewers:

Theresa Case, Associate Professor, History

Stacie DeFreitas, CHSS Interim Associate Dean, Associate Professor, Psychology

Arthur Eliassen, Associate Professor, Social Sciences

Paul Fortunato, Associate Professor, English

Laura Ruth, Assistant Professor, Social Sciences

Natalia Matveeva, CHSS Online Teaching Initiative, Associate Professor, Communication Studies

John Rountree, Assistant Professor, Communication Studies

Send comments, questions, or suggestions to matveevan@uhd.edu.