

CU MOOC Copyright Guidelines

University of Colorado (CU) students, faculty and staff engaged with Massive Open Online Courses (MOOCs) will necessarily wish to use, share and comment on information resources within the context of their these courses. These guidelines are offered to assist individuals in understanding their rights and responsibilities based on current (January 2014) understanding of extant copyright protections. The University of Colorado supports fair use and the free and open exchange of information. It also recognizes the need to appreciate the interests of rights holders, and therefore encourages parties to consult with the staff of the Copyright Education Initiative Office, library personnel at any of the CU libraries, or with campus legal counsel should questions or concerns arise.

Works and content permissibly incorporated in MOOCs

Works you can incorporate into your Massive Open Online Courses (MOOC) include:

- Self-authored works for which you own the copyright.
- Self-authored published works (e.g. journal articles and book chapters) for which you have retained reproduction and distribution rights.
- Items legally available on the web, to which one can link.
- Materials without copyright protection, including those works in the Public Domain and US Federal government publications.
- Open Access and Creative Commons works licensed with distribution rights.
- Material that falls under the fair use provision of the U.S. Copyright Act (17 U.S.C. § 107).
- Copyrighted works that you have obtained permission or a license to use.

Self-Authored Works

You can freely use any course materials in which you own the copyright, including any notes, lecture materials, study guides, tests, etc. that you have created for your MOOC. If you are interested in using works of yours that have been published (and not self-published), you must examine your publication agreement to ensure that you have retained the rights to do so.

Linking

You do not need to worry about copyright infringement when linking to items made available legally on the web. These can include news articles, blog postings, textual works, sound recordings, and videos as well as print and media files stored in institutional repositories and digital archives.

Works without Copyright Protection

Works in the Public Domain

Anything published before 1923 is in the public domain. Works that fall into this category can be freely shared with others without fear of infringement.

Many works created between 1923 and 1978 are still protected under copyright, however not all are. Determining the copyright status of works published during this time period can be difficult. When in doubt, it is always best to treat the work as though it is fully protected under the law.

Works Created by the U.S. Government

Works created by the U.S. Government do not receive copyright protection. You must be cautious, however, as works produced by the U.S. Government can contain copyrighted components such as text, pictures, charts, tables, and graphs that were created by nongovernmental employees. Works funded by federal grants may be protected by copyright if they are created by nongovernmental employees. If you are uncertain about the copyright status of a governmental work you should contact the author or agency that produced it to seek clarification.¹

State and local laws and court decisions are also in the public domain. Some state and local governments choose to place some of their works in the public domain. As with works created by the U.S. Government, if you are uncertain about the copyright status of one of these works you can contact the author or agency that produced it to seek clarification.

Using Open Access & Creative Commons Works

The creators of some copyrighted works have decided to share those works with others, so long as users abide by certain licensing requirements. Most often, the creator will allow others to copy and distribute their work so long as they attribute them with its creation. Exact terms of the license can usually be found on the website from where the work was obtained.

Open Access Works

These are scholarly works that are made available digitally, online, free of charge, and free of most copyright and licensing restrictions.² The licenses associated with most OA works allow users to share the work with others, either in print or digitally, so long as attribution is given to the author and publisher. Before utilizing an OA work, you should verify the license terms.

Creative Commons Works

A wide variety of works can be found through the Creative Commons (<http://creativecommons.org/>), including video, music, images, literary works, and computer code. Look for works licensed as...

- Attribution--NonCommercial: This license allows you copy, distribute and build upon a work so long as you provide credit to the original creator.
- Attribution—NonCommercial--NoDerivs: This license allows you to distribute a work to others so long as it is passed along unchanged and in whole, with credit being given to the original creator.

Works and content covered under Fair Use

The fair use exemption found in the U.S. Copyright Act, 17 U.S.C. § 107 allows us to make use of copyrighted works without obtaining the rightsholders' permission when engaging in activities "such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research." Making a fair use decision involves applying each of the four factors defined in this statute to the use. These factors are:

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

Fair use can apply to MOOC courses, but in a much more limited fashion than it does in the traditional higher education classroom.³

Fair Use & Lecture Materials

A strong case can usually be made for incorporating limited amounts of third party materials into your lecture and/or presentation slides under the auspices of fair use. Examples include:

- Short quotations from literary works that are relevant to the content of your course.
- Images, charts, graphs, figures and other illustrations that you will be providing commentary or criticism on as part of your lecture.
- Short film and audio clips. You should be careful to only use the amount needed to illustrate your point, and a fair use argument is greatly strengthened when you have intermingled commentary or criticism directly into the clip.

Lecture materials which will likely not qualify as a fair use include:

- Text that runs beyond a long quotation.
- The mass use of images, charts, graphs, figures and other illustrations from one particular source.
- Video and sound recordings without intermingled commentary and criticism.
- Quotes, text, images or any other content which is not essential to the pedagogy of your course.

If you wish to use these types of materials in your lecture you'll likely need to obtain permission for the use.

Fair Use & Course Assignments

Given their massive, open, and online nature of MOOC's, the distribution of copyrighted works for class assignments will not likely be covered under fair use. It is recommended that you assign course readings that can be freely shared (Open Access works) or those readings, films, and sound recordings that you can link to. You can also assign course readings for which you have obtained permission or a license to use.

Obtaining Permission or a License to Use a Work

If a work you wish to use falls outside the scope of fair use, you can attempt to obtain permission from the rightsholder to use it. Steps involved in this process include:

- Outlining the intended use.
- Identifying the rightsholder.
- Contacting the rightsholder to request permission for the use.

Your requests should always be done in writing (email is recommended), which will allow you and the rightsholder to express your intent clearly. Your communications can then also be used for reference if there is ever a dispute regarding your use. Information you should include in your request includes:

- Your name and title or position.
- The name of your institution.
- Your contact information including an email address, a physical address, telephone number, and fax number.
- A full citation for the item you wish to use.
- A complete and accurate description of how the work will be used in your MOOC (e.g., supplemental reading, required reading, incorporated into a lecture).

Sample permissions letters can be obtained from your CU Copyright Representative.

Some rightsholders may require you to obtain a license for your use. This contract will define the specific terms under which their work can be used. It is important to note that a fee will likely be charged for your use; this fee will need to be covered from the allotted course funds provided to you from your institution.

Need Help?

Your campus copyright representative can help you with...

- Reviewing your publication agreements to determine what rights you have retained in a work. We can also help you explore Open Access publication options or assist in negotiating with your publishers to ensure that you retain the rights to use your works for non-commercial educational purposes.
- Determining if the 3rd party material you are interested in using falls under the CU MOOC fair use policy.
- Preparing and sending permissions requests on your behalf.
- Helping negotiate license agreements to ensure you are getting the rights needed to use the work in a MOOC.
- Finding alternative Creative Commons images, films, video and sound recordings or Open Access readings that can be supplemented for the use of a protected work.
- Any other copyright problems or issues you encounter while developing your MOOC!

CU Campus Copyright Representatives

Campus	Representative	Email	Phone	Office
Anschutz Medical Campus	Yumin Jiang	YUMIN.JIANG@ucdenver.edu	303-724-2137	12950 E. Montview Blvd., Room 2110
Boulder Campus	Jennifer Chan	copycat@colorado.edu Jennifer.Chan@colorado.edu	303-492-6104	Norlin Library Room S161B
Colorado Springs Campus	Carla Myers	cmyers8@uccs.edu	719-255-3908	El Pomar Center Room 210
Denver Campus	Ellen Metter	Ellen.Metter@ucdenver.edu	303-556-4516	Auraria Library Room 118E

¹Crews, K. D. (2012). *Copyright Law for Librarians and Educators: Creative Strategies & Practical Solutions*. Chicago: American Library Association.

² Suber, P. (2012). *Open Access*. Cambridge: The MIT Press.

³ Smith, K. (2012). *Guidelines for using copyrighted material in Coursera MOOCs*. Durham: Duke University Libraries.