

COPYRIGHT & COVID-19



In response to the ongoing COVID-19 situation, CeLT would like to offer the following tips and resources for locating and sharing teaching materials during the rapid shift to online instruction.

Please be aware that this information does not constitute legal advice, and instructors with legal questions are directed to contact either IU's Copyright Librarian, Naz Pantaloni (<https://libraries.indiana.edu/nazareth-pantaloni>), or the office of IU's General Counsel (<https://vpgc.iu.edu/>). It is the responsibility of the instructor to make his/her own decisions regarding copying of protected materials. These tips are designed to assist instructors during this critical time of quickly moving courses online in response to COVID-19 and are not intended to be long-term solutions.

The good news is: in general, if you were sharing materials within the scope of your course prior to COVID-19, you are able to make reasonable adaptations to **continue sharing that same content** during the temporary shift to online-only teaching!

Best practices for sharing this content are probably things you already do:

- Providing access to just your students (by hosting/linking in Canvas)
- Providing access for only the time necessary (giving the students access just for the semester)
- Sharing only the amount of copyrighted material that's pedagogically valuable to your teaching
- Linking to external media (such as YouTube videos, articles on a news website, etc.) rather than downloading and re-uploading into Canvas when possible

During this difficult time, instructors and students may not have reliable access to their expected materials (textbooks, articles, images, audio, and video) or might need to quickly change their lesson plans to adapt to the nature of teaching online. Following the guidance set forth by a census of copyright experts (<https://tinyurl.com/tvnty3a>), CeLT encourages instructors to rely heavily on the fair use provisions of U.S. copyright law and its mission to “to promote the Progress of Science and the useful Arts” when gathering and sharing course materials.

The fair use provisions exist specifically to fill needs such as the ones we, as educators, are facing currently! A fair use analysis needs to be conducted by the instructor for each material used, but please see the Q&A below for generalized examples.

A **fair use analysis** consists of the weighing of the following four factors, with the primary importance in educational uses generally being given to factors 1 and 4:

- 1) The **purpose** of the usage of the copyrighted material
 - a. Favoring fair use: teaching, scholarship, research, comment, criticism, etc.
 - b. Opposing fair use: entertainment, profit, etc.
- 2) The **nature** of the copyrighted material
 - a. Favoring fair use: published material, non-fiction or fact-based, importance to pedagogical outcomes
 - b. Opposing fair use: unpublished material, highly creative material (art, music, etc.), fiction
- 3) The **amount** used of the copyrighted material
 - a. Favoring fair use: only the amount necessary to achieving pedagogical outcomes
 - b. Opposing fair use: the entire work or a very substantial portion (without demonstrated need)
- 4) The **market (financial) impact** of the usage of the copyrighted material
 - a. Favoring fair use: purchase or licensing of the material unavailable at a fair price or reasonable timeline, no significant impact on the market from this specific usage (common for short-term uses)
 - b. Opposing fair use: copying replaces sale of materials that are reasonable available, numerous copies made, long-term use

Q&A

Q. Do I need to worry about the copyright of **images on my PowerPoint slides** (that I am sharing in a video lecture or via Canvas)?

A. If you were okay to share those images in the scope of a normal face-to-face class, then you should be fine to share them with your students via Canvas or similar.

Q. My students had to leave campus quickly and **do not have access to their textbook**. What should they do?

A. First, check to see if there are e-books available through IU's Library (<https://guides.libraries.indiana.edu/COVID-19temporaryaccess/textbooks>), the National Emergency Library, or from a wide range of publishers who are temporarily providing open



access to e-materials in response to the COVID-19 situation. CeLT or the library can assist you in this search. However, if your necessary text is unavailable elsewhere, you should likely feel comfortable to copy the necessary portions to share within Canvas for your students during this unusual situation.

Q. I need to **show a movie in class** for a project/discussion. How can I share this movie with my students?

A. First, look to see if the title is already available through any number of IU's current streaming subscriptions—you can search the IUCat records here: <https://iucats.iu.edu/>

Some streaming providers are greatly opening up their collections for unrestricted educational use during this time—you can find a list of many of them here:

<https://guides.libraries.indiana.edu/COVID-19temporaryaccess/video-audio>

Many students have Netflix or Hulu subscriptions—it is not unreasonable to ask if your students are able to access the films through their own subscriptions. Please also check YouTube!

Both CeLT and the IU library can help you with your search. If you cannot find the movie elsewhere, you should likely feel comfortable to share clips of the same amount you would be utilizing in a face-to-face class as long as there is structured class activity based on the content (such as a discussion). In this context and considering the time-sensitive nature of moving coursework online due to COVID-19, CeLT interprets that showing an entire movie *may* be considered a fair use as long as discussions or other pedagogically effective activities are incorporated throughout the viewing. CeLT can assist you with these fair use clips if necessary.

Best practice take-aways:

- Whenever possible, link to external materials rather than upload your own copy
- Limit the access to only your students by requiring students to log into Canvas/Kaltura/etc.
- Limit the duration of access to only the semester
- If you have questions, just ask!



Resources:

IU Libraries database of multimedia sources (text, journals, audio, video, images) providing temporary free access during COVID-19:

<https://guides.libraries.indiana.edu/COVID-19temporaryaccess/home>

IU Libraries database of audio and video streaming resources with COVID-19 access:

<https://guides.libraries.indiana.edu/COVID-19temporaryaccess/video-audio>

IU Libraries list of streaming video subscriptions:

<https://guides.libraries.indiana.edu/friendly.php?s=streaming-video>

The National Emergency Library (over 1,000,000 published books available for free and immediate digital access):

<https://archive.org/details/nationalemergencylibrary>

IU Libraries COVID-19 Updates (hours, contact information, teaching resource links, etc.):

<https://libraries.indiana.edu/library-covid19>

Further reading:

Columbia University Fair Use Checklist:

<https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html>

IU Libraries Copyright Program Guide:

<https://libraries.indiana.edu/copyright-services>

Resources on Copyright & Emergency Remote Teaching & Research (prepared by a group of top copyright experts):

<https://tinyurl.com/v6dvmcb>