Message to MSU Instructors from MSU Office of the General Counsel

and the MSU Libraries

As academic interactions increasingly shift to online learning platforms, MSU Libraries is frequently asked to reproduce and/or digitize work for which copyright is held by another entity. While the Libraries works to support the shift to online teaching, we also are working to ensure the university continues to respect the copyrights of others and to protect its own copyright-protected material. This message is provided after review of the university policies and U.S. copyright law and communicates guidelines under which MSU Libraries will provide materials and encourages instructor actions that will minimize copyright infringement by students.

Accordingly, we ask that each faculty member or instructor to:

1. Include notification in the syllabus that all course materials are copyright protected (unless they are also found in the public domain) and may not be shared, distributed or sold by students. This information and statement should be shared during the initial class meeting or recorded session;
2. Seek alternatives to MSU's digitization of materials by searching for existing and publicly available links to the same or similar content that will meet the teaching objective as the content you would like to use may already be licensed for streaming or available by publicly accessible links;
3. Safeguard against students' ability to sell course materials by marking course materials and slides with a copyright notice in the form of: [Year of first publication] © Board of Trustees of Michigan State University (e.g., 2020 © Board of Trustees of Michigan State University); and
4. Post recorded classes in a manner that allows only enrolled and registered students to access the materials.

When you accept digitized materials for online teaching from the Libraries you, as the course instructor, acknowledge the following:

1. The materials will be distributed to students who are registered and enrolled in a class you teach and will be provided only through a password protected site;
2. You will inform the students that the content of the presentations is protected by copyright law and they may not use the material for purposes outside the course and may not share the material with anyone else; and
3. Prior to requesting the digitization of a video, you have searched for existing and publicly available links to the content online.

A brief word on the Fair Use doctrine. Many materials can be used under the doctrine of Fair Use for educational purposes. However, not all use is fair simply because the material is presented in a course.

1. For example, displaying a Dilbert cartoon in an engineering course for comic relief is not fair use, but the displaying the same cartoon in an art class that is teaching cartooning might be fair. The difference being that it is more likely the instructor in the latter course needs to use the cartoon as an example in order to meet a legitimate teaching objective.
2. U.S. copyright law permits playing "reasonable and limited" portions of a copyrighted film or video during an online class session. MSU presumes that playing of entire films or videos is not required in order to meet a teaching objective. If viewing an entire film or video is assigned, the instructor should identify a publicly available source for the film or video or assign the viewing of a film licensed to MSU through the MSU Libraries. If no public source is available, the Libraries will, in consultation with the Office of the General Counsel, review your request for digitization of an entire film or video against the fair use factors.
3. Please consult the MSU Libraries Copyright FAQ https://lib.msu.edu/copyright/faq/ for more detailed information on using copyrighted material in courses, or consult with Susan Kendall, Copyright Librarian, copyright@msu.edu for help with any questions about using copyrighted materials in teaching online.

Thank you,

MSU Office of the General Counsel

and

MSU Libraries

https://lib.msu.edu/copyright/