

Balancing Faculty Intellectual Property and Student Free Speech/First Amendment Rights August 7, 2020

Background

The transition to remote learning has raised questions about faculty control over their intellectual property and student free speech/first amendment rights. For example, when is it permissible for a student to share course materials (e.g., lecture capture and other instructor-created materials) with others, a process made easier with digitized course materials? The following were reviewed:

- Copyright law, federal and Ohio statutes, and case laws
- Current university policies, the CBA, Academic Charter, and Student Code of Conduct
- Practices at other universities

Unless a faculty member received substantial support from the University to create course materials (see CBA Article 25, Sections 2.5 and 2.6 and Article 26, Section 4), faculty own the copyrights in the course materials they create. There are steps that faculty can take protect their course material.

Recommendations

1. Post materials only through Canvas which is a password-protected and accessible only to registered and enrolled students.
2. Advise students that instructor's course materials and course presentations are protected and that students may not share them except as provided by U.S. copyright law and University policy.

Recordings

- Communicate in writing to students the right as the instructor to permit or prohibit video or audio recording of a lecture or other classroom interaction. This may be communicated on the course syllabus or in a subsequent written communication shared with students.
- Remind students that they are expected to be familiar and comply with the Student Code of Conduct and seek permission of the instructor before audio/video recording their instructor.
- Pursue the Student Code of Conduct processes for alleged policy violations by students related to audio/video recording of instructor without permission.

Syllabi Statement (example)

My lectures and course materials, including PowerPoint presentations, tests, outlines, and similar materials, are protected by U.S. copyright law and by University policy. I am the exclusive owner of the copyright in those materials I create. You may take notes and make copies of course materials for your own use. You may also share those materials with another student who is registered and enrolled in this course, a tutor, students currently enrolled in the same course but with a different instructor, or other related circumstances where the purpose of sharing material is to advance your learning or that of your peer students at BGSU.

You may not reproduce, distribute or display (post/upload) lecture notes or recordings or course materials in any other way — whether or not a fee is charged — without my express written consent. You also may not allow others to do so.

If you do so, you may be subject to student conduct proceedings under the [BGSU Code of Student Conduct](#).

Similarly, you own the copyright in your original papers and exam essays. If I am interested in posting your answers or papers on the course web site, I will ask for your written permission.

3. Include language on every page of your course materials (in a header or footer, on PDFs and in Canvas) that they are protected by copyright: “© Faculty Name 2020” or “©All Rights Reserved”
4. As owners of their materials, faculty may individually pursue their own claims of copyright infringement. This does not preclude the university from participating should it wish to do so at the faculty member’s request.

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