

COPYRIGHT PROTECTION POLICY

SCOPE We at the New York School for Medical and Dental Assistants (NYSMDA) recognize and respect intellectual property rights. As part of our mission to maintain the highest standards for ethical conduct, we are committed to fulfilling our moral and legal obligations with respect to our use of copyright-protected works. Article I of the U.S. Constitution authorizes Congress to pass legislation "to promote the Progress of Science and useful Arts by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." On the basis of the Constitution, Congress has enacted the Copyright Act found at Title 17 of the U.S. Code. As a matter both of moral integrity and of adherence to U.S. copyright law, NYSMDA sets forth these policies for all employees to demonstrate our respect for intellectual property and compliance with the law.

POLICY

1 / No employee of NYSMDA may reproduce, either in the original format or any other medium, any copyrighted work in violation of the law.

Works are protected by copyright laws in the U.S. even if they are not registered with the U.S. Copyright Office and even if they do not carry the copyright symbol (©). Copyrighted works include, but are not limited to, printed materials from publications, TV and radio programs, films in any format, music performances, images, training materials, manuals, documentation, software programs, databases and website or digital content.

2 / NYSMDA employees will be aware of Section 107 of the law, commonly known as the doctrine of Fair Use.

Section 107 states:

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

- (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.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors. (Copyright Act of 1976, 17 U.S.C. § 107)

3 / NYSMDA employees will be aware of the “Technology, Education and Copyright Harmonization Act”, most commonly referred to as the TEACH Act, for the distribution of online copyrighted works in academic institutions.

The TEACH Act permits online access to performances of non-dramatic literary or musical work, performances of any other work but only in “reasonable and limited portions”, and it permits the display of any work in an amount comparable to that which is typically displayed in the course of a live classroom session.

The TEACH Act excludes: Work produced or marketed “primarily for performance or display as part of mediated instructional activities transmitted via digital networks.” Examples include course cartridges prepared by publishing companies that require institutions to purchase licenses for student access. As well as work produced “not lawfully made and acquired” under the U.S. Copyright Act if the instructor or the institution know or reasonably should know materials were not lawfully made or acquired.

Work originally produced in analog format cannot be digitized except if the amount converted is limited to the amount appropriate for the instructional activities [consistent with Section 111(2)]; and a digital version of the work is not “available to the institution,” or is secured behind technological protection preventing accessibility in the distance-education program [consistent with Section 111(2)].

Such copyrighted digital materials may be used if the work or performance used is “at the direction of, or under the actual supervision of an instructor” and the work or performance used is “an integral part of a class session offered as a regular part of the systematic, mediated instructional activities” of the college.

PROCEDURE

4 / Faculty will use the provisions of the fair use doctrine, as defined in section 2.1, in determining the extent to which copyrighted material may be used in the classroom.

Faculty will use the Fair Use Evaluator found at the NYSMDA Copyright Libguide to document their use of copyrighted materials.

Faculty will comply with the “Teach Act” doctrine, as defined in section 3, for the use of copyrighted work uploaded to online, web-enhanced, and hybrid courses.

For works that do not meet the qualifications of the TEACH Act doctrine or the factors of Fair Use, NYSMDA directs its employees to either obtain permission from copyright holders directly

or obtain an appropriate substitute that complies with the Copyright Policy. Please contact your librarian for assistance.

Course syllabi will include the statement: “The materials found in this course are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated. Materials used in connection with this course may be subject to copyright protection. Information regarding the TEACH Act and Fair Use Doctrines can be found on the NYSMDA website: <https://nysmda.libguides.com/copyright>.”

NYSMDA designates the NYSMDA Librarian as the copyright officer to administer our copyright policy. Questions concerning copyright procedures, including fair use and the TEACH Act, should be addressed to the NYSMDA Librarian.

NYSMDA encourages its employees to educate their peers on copyright compliance. If any employee witnesses a potential copyright infringement, we encourage the employee to bring the matter to the attention of the individual as well as to our copyright officer named above. Employees who illegally duplicate copyrighted works may be subject to disciplinary action up to and including termination.