NECC Application Process for Ordering Closed Captioning

START HERE

Is the video for academic use in class, or on Blackboard?

- NO → Approval* required for use on NECC public website, or for use in public presentations.
- YES →

Did you check availability in **Films on Demand** in the library website? All have CC.

- NO → Check for similar work in **Films on Demand**.
- YES →

To use in Learning Management System (LMS)?

- NO → Approval** needed.
- YES →

For more than one-time use? (Multiple class sessions, or multiple semesters.)

- NO → Approval** needed.
- YES →

Duration of video less than six minutes?

- NO → Is it a Powerpoint?
  - NO → Can it be edited into segments under 6 min.?
    - NO → Approval** needed.
    - YES →
  - YES →
- YES →

Is this original work by an NECC employee?

- NO → Does it meet Fair Use*** (TEACH Act) restrictions?
  - NO → Segment under 3 min. or less than 10% of whole?
    - NO → Denied.
    - YES →
  - YES →
- YES →

Approved.

FAIR USE OF VIDEOS

For use in class or on a Learning Management System such as Blackboard, under the TEACH Act, allowable use is:

1. Reasonable and Limited portions of dramatic works, such as movies, TV programs, plays, etc.
2. Entire non-dramatic works, i.e.: documentaries.

YouTube videos may not be captioned by NECC without written consent by the owner of the content.

TED Talks have Closed Captioning, and are available for free educational use under the conventions of Creative Commons requiring proper credits—BUT, you should download them from the TED Talks website, NOT YouTube. If captions are missing, that means it is a recent post, and the TED volunteers have not yet added captions.

Who to contact for approval:

* For public use, contact the **Marketing Communications Department:** HOW, ngilbert@necc.mass.edu

** For internal use, contact **Center for Instructional Technology:** HOW-116, distance@necc.mass.edu

*** See page two.

Northern Essex Community College

DECEMBER 16, 2016

FAIR USE AND TEACH ACT RESTRICTIONS AND CONDITIONS

Video formats	What you can do	Rationale/ Defense	How much you can use	Restrictions & Conditions
Videotapes DVDs Laserdiscs Multimedia Encyclopedias Quick Time movies Video clips from the Internet (legally acquired)	Show and play *(perform)* in a face-to-face classroom	**Copyright Act**	No restrictions	Copies of materials used must be legally made or acquired. Archival copying OK provided a suitable replacement is unavailable at a fair price or in a viable format.
	Transmit over the Internet or TV *(perform)* as part of a class session	**TEACH Act**	Reasonable and limited portions of dramatic works, such as movies, TV programs, plays, etc. Entire non-dramatic works.	Transmissions are subject to "**TEACH Act Restrictions and Conditions**" *(see text below)*. The TEACH Act excludes materials produced or marketed for "**mediated instructional activities**" *(see text below)*. Copies of materials used must be legally made or acquired.
	Transmit over the Internet or TV *(perform)* as part of a class session or class enhancement. Incorporate into a multimedia or video project to be used as a part of a course	**Fair Use Doctrine & Guidelines**	Up to 10 percent or 3 minutes, whichever is less, of a copyrighted motion media work. Entire works may be transmitted only once without permission.	Use of copyrighted materials is subject to the "**Fair Use Test**" *(see text below)*. For distance learning: Technological measures must be in place to prevent unauthorized access or copying, as with TEACH Act. Copies of materials used must be legally made or acquired.

TEACH Act Restrictions and Conditions

The TEACH Act—the Technology, Education, and Copyright Harmonization Act—amended Section 110(2) and 112 of the Copyright Act to facilitate the growth of distance learning.

Copyrighted materials used under the TEACH Act are subject to the following restrictions and conditions:

- Transmissions must be made as part of "mediated instructional activities" at an accredited non-profit institution.
- Material must be directly related and of material assistance to the teaching content of the transmission.
- Technological measures must be in place to limit access to enrolled students and reasonably prevent download and further distribution of materials.
- Copies of the works cannot be made available to students for longer than the class session.
- Institutions must establish copyright policies and provide informational materials regarding copyright to faculty, students, and relevant staff.
- Students must be given notice that material may be subject to copyright protection.

What are "Mediated Instructional Activities"?

The item "mediated instructional activities" refers to activities that mirror conduct in a traditional classroom, such as the following:

- Materials used should be of the same type used in a face-to-face classroom.
- Materials transmitted must not be textbooks or other materials that are typically purchased or acquired by the students.
- Transmission should be a regular part of systematic instructional activities.
- Transmission must be made by, at the direction of, or under the actual supervision of the instructor.

Digitizing Copyrighted Works

The TEACH Act allows the conversion of print or analog material into digital formats if:

1) no digital version is available, or
2) an available digital version is protected by technological measures.

Fair Use Test

The Fair Use doctrine specifies four factors that must be considered when using copyrighted material for educational purposes. Items under each factor are considered on a continuum ranging from permissible on one side, to infringement of copyright on the other.

The four factors of the Fair Use test are:

PERMISSIBLE — INFRINGEMENT

1. Purpose and character of the use
Non-profit — **Commercial**

2. Nature of the copyrighted work
Non-fiction / **Published** — **Fiction** / **Unpublished**

3. Amount and substantiality of the portion used
Small amount — **Substantial amount**

4. Economic effect of the use
No economic effect — **Harm to current or potential market**