

# Copyright Policy for Online Education

## ROWAN UNIVERSITY POLICY

**Title:** Copyright Policy for Online Education

**Subject:** Academic Affairs

**Policy No:** AA:2021:01

**Applies:** University-wide

**Issuing Authority:** Provost/Senior Vice President for Academic Affairs, Senior Vice President for Information Resource and Technology and Chief Information Officer, and Senior Vice President for Strategic Enrollment Management and Rowan Global.

**Responsible Officer:** Provost/Senior Vice President for Academic Affairs

**Adopted:** 02/22/2021

**Last Revision:** 02/22/2021

**Last Reviewed:** 02/22/2021

### I. Purpose

This policy governs how Rowan University, in cooperation with the University Senate and the [Rowan University Copyright Policy](#), defines the terms and conditions on which members of the institution may use copyright protected materials in distance education - including on websites, Learning Management Systems (LMS), and by other digital means - without permission from the copyright owner and without payment of royalties. This policy also governs the responsibilities of obtaining copyright, if needed.

### II. Accountability

This policy shall be implemented and enforced by the Provost with respect to Academic Teaching Materials and content and by the Divisional Vice President for other areas of the university.

### III. Applicability

This policy applies to all Rowan University employees.

### IV. Definitions

1. Course Developer: The faculty member under contract with Rowan Global designated to develop a new online or hybrid course or redevelop an existing online or hybrid course.
2. Instructor: The faculty member on record through Banner who is designated to teach a course or section of a course.
3. Instructional Designer: The staff member employed by Rowan University designated to work with Course Developers and Instructors to design and maintain online or hybrid courses offered through Rowan Global.
4. Transformative: Use of a copyrighted work where the intent is of a different purpose than the purpose of the original work. Not intended to be a substitute for the original work, transformative use adds value and repurposes the work for a new audience.
5. Fair Use: Legal doctrine and framework, as noted by Section 107 of the Copyright Act, and in judicial cases further interpreting and applying the Section that permits the use of copyright-protected works in certain circumstances to promote freedom of expression without permission or payment.
6. Distance Education: General term covering all instances where students and the instructor may not meet for class in the same physical space. Materials and content will be hosted digitally to support any mode of education, including online, hybrid, and traditional (face-to-face) and is typically delivered via a variety of technologies, including the internet, open broadcast, television, satellite, wireless communications, fiber optics, audio conferencing, and media (such as DVDs, CDs, etc.).

## **V. Policy**

### **1. Responsibility of Obtaining Copyright**

- a. Course Developer (of Online and Hybrid courses developed through Rowan Online)
  - i. The course developer is responsible for obtaining permission for use of any third-party work in his/her online or hybrid course.
  - ii. The course developer must ensure that any usage of third-party work within his/her online or hybrid course does not infringe on copyright.
- b. Course Instructor (of Online and Hybrid courses developed through Rowan Global and Rowan University Remote courses)
  - i. The course instructor is responsible for obtaining permission for use of all third-party work in his/her online course.
  - ii. For Online and Hybrid courses developed through Rowan Online, some works may be used under permission obtained by the original course developer (if the developer and instructor are not the same) if said permission is transferable to the instructor and has not expired.
- c. Instructional Designer
  - i. The instructional designer will not make requests for permission on behalf of an instructor or designer.
  - ii. The instructional designer will collect a copy of any notice that grants permission for a given work and keep it on file with the course archive.

### **2. Ownership of Created Content**

- a. **Online and hybrid courses developed through Rowan Global under contract**
  - i. Course Developer
    1. The University acknowledges and agrees that the content and related materials (and all rights therein, including, without limitation, copyright) supplied for the course by the course developer belong to and shall be the sole and exclusive property of the course developer. Notwithstanding course ownership, Rowan University shall be permitted to use the course, its content and related materials, for a period of twenty-five (25) years. Other approved uses must be made explicit in the signed contract. The same use authorization/license for use will be extended to any future revisions and updates made by the course developer to the course, its content, and related materials.
  - ii. Course Instructor
    1. An instructor may modify existing course content for the purposes of correcting or updating content for the current offering of the course. This includes any new content the instructor creates while teaching the course.
    2. Rowan Global/Rowan Online shall also have the right to modify and revise course content during the license period. Rowan Global/Rowan Online shall document in writing changes made to the material.
- b. **All other Rowan University courses using the Learning Management System**
  - i. Content is the sole property of the instructor except for instances whereby circumstances require the use of said content to ensure instructional continuity. Examples include, but are not limited to:
    1. Instructor must go out on emergency medical leave for a period of time during which another instructor must be assigned to the course.
    2. Instructor is in the process of departing from or being terminated by the University and another instructor must be assigned to the course.
    3. Instructor is unable to continue teaching the course in question.

### **3. Online Content Distribution Technologies**

- a. Authorized Users

For all systems hosting educational content, media, and other digital materials, access should only be granted to authorized users within Rowan University and by using official Rowan University network accounts.

  - i. Access to online and digital course content must be limited to those students, faculty, and employees officially enrolled in the course or are otherwise officially authorized to have access to the course content.

b. Media Download Prevention

In an effort to protect third-party media works and other digital video content hosted on Rowan University operated digital content distribution platforms, downloading of media works is prohibited and the ability to download is disabled by default. Distribution technologies are designed to prevent duplication or copying of the content. Content is streamed on-demand and not downloaded to a user's local machine.

c. Content Hosting

- i. All third party works used within online courses hosted, managed, and maintained by Rowan University must comply with US Copyright law.
- ii. Rowan University employees who assist with instructional technologies, such as an Instructional Designer or support technician, are not responsible for reviewing works for copyright compliance or making a determination as to whether or not the use of a work is copyright law compliant.
- iii. Works hosted as files in a course in the LMS and third-party content hosted on the streaming digital video platform are secured and accessible by the specific students, instructors, and Rowan University staff registered and authorized to access the content of the course.
- iv. Content that is known to not be copyright compliant will not be allowed to be distributed on any Rowan University digital content platform and/or may be removed with notice to the Course Developer and/or Instructor (notice may be sent after removal).
- v. Rowan University will immediately comply with any official *takedown* or *cease & desist* requests and stop all distribution of any work in question. The Course Developer and/or the Instructor will be notified by Rowan University after the work is removed from the system.
- vi. Owner provided copyright statements must be displayed with the hosted work.
- vii. Works hosted within any Rowan University digital content distribution system that are being used under Creative Commons or other licensure must be accompanied by a statement of justification that clearly addresses how use is copyright compliant.

**4. Copyright Law Compliance**

In an effort to ensure that all third-party works distributed digitally on any of the Rowan University systems are compliant with current U.S. Copyright laws, instructors are obliged to follow the procedure and requirements listed below:

- a. The instructor must determine if the work is available for use without permission.
  - i. Unprotected and free to use works including U.S. government documents, works licensed under creative commons, and works in the public domain.
  - ii. Visible attribution and/or acknowledgement may be required if available.
- b. If the work is not available for use without permission, consider employing the Fair Use and/or Teach Act provisions of U.S. Copyright law. Specific to Distance Education, the instructor must ensure the following for compliance:
  - i. Performance and display of the work is limited to reasonable portions as necessary for the purpose of its use in the class.
  - ii. Use of the work is directly applicable to the course content, topics, objectives, activities, and/or assignments.
  - iii. Use of the work is transformative. Transformative uses are those that add something new, such as with a further purpose or different character, and do not substitute for the original use of the work.
  - iv. Hosting and distribution of the work must use the designated Rowan University content distribution technologies to ensure that the appropriate precautions are in place to limit access to registered students and limit their ability to retain and/or redistribute the work.
- c. If the work is not available for use without permission and the instructor cannot employ the Fair Use and/or Teach Act provisions for the work as outlined in Item 2, then the instructor must attempt to obtain written permission/consent to use works.
  - i. The instructor will be required to produce written permission/consent on demand for compliance if questioned.

**5. Dispute and Appeal of Copyright Compliance**

The instructor may dispute any decision to remove content from Rowan University digital media

distribution technologies by making an appeal to the Office of the Rowan University General Counsel. The instructor shall provide the course title and a description of the content removed as well as any documentation relating to the removal. Decisions made by Rowan University General Counsel are final.

## VI. References

1. American Library Association. (2020). *Copyright: Distance education and the TEACH Act*. <http://www.ala.org/advocacy/copyright/teachact/distanceeducation>
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