

Students Sharing Class Materials - Can Instructors Intervene?

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Quizlet - StudyBlue - OneClass - CourseHero

In the last decade, numerous student note-sharing services have sprung up, enabling students to do efficiently, and online, what they had previously done informally (and inefficiently).

What can instructors do to control course-related content on these student note-sharing services?

Short answer: In some cases you can send take-down notices under copyright – and we can help you with that – but the most flexible long-term solution is to 1) clearly communicate to students the instructor's expectations around sharing course materials and 2) make it clear that those expectations implicate the UMass Amherst Code of Student Conduct.

Copyright

As an instructor, you hold a copyright on your original work “fixed in any tangible medium of expression.” This includes your slides, lecture notes, assignments, graphics, and other materials, whether electronic, printed, or in an audiovisual recording. The University of Massachusetts Intellectual Property Policy (http://www.umass.edu/research/system/files/Intellectual_Property_Policy_UMA.pdf) acknowledges that instructors generally own copyright in their “exempted scholarly work,” which includes “textbooks, class notes, ... [and] classroom presentation and instruction.”

However, you don't hold a copyright in everything you create or do. For instance, you hold no copyright in your actual verbal lecture, which is not “fixed” — unless you yourself record your lecture, or engage UMass IT to record your lecture with its lecture capture services. You also don't hold a copyright in the ideas embedded in your lectures, syllabi, etc. — ideas are free to use and share, because they are protected by the First Amendment. Formulas and methods, similarly, are considered factual and non-copyrightable; so are titles and short phrases.

Consider two examples of instructional content where copyright is not that helpful.

Facts, Methods, Procedures Are Not Copyrightable

Professor Pumpkinspice, who teaches the “Chemistry of Cooking” every fall, has developed a series of slides presenting various food-related chemical formulas, and a timeline slide with dates in history on which the formulas were developed. Professor P's slides are all factual information, with no ornament, illustration, or commentary. The only copyrightable expression in these slides, then, might be the selection and arrangement of the content, if Professor P's selections and arrangements are eclectic or original. A student might copy all or most of the factual content in the slides, and the instructor has no “copyright hook” to control the copyright and redistribution of those slides, because there is little copyrightable expression.

Ideas Are Not Copyrightable

Professor Pumpkinspice is famous for pop quizzes on surprise topics, but is outraged that students are sharing the topics of



exam questions with students in a later section. But because copyright only covers the literal text of the exam questions (fixed expression), and not the subject of the questions (facts and ideas), Professor P has no “copyright” hook to try to stop students from providing “spoilers” to fellow students about exam questions or topics covered.

Students Have Copyright and First Amendment Rights, Too.

Moreover, students have copyright interests in their own notes, and gain the copyright the same way instructors do – simply by creating something original in a fixed medium. Of course, if a student is only copying the text of an instructor's slides, and not adding anything new to the original work, they would not gain a new copyright. But the amount of original expression required for a copyright is small, so it might not be hard for a student to raise their own copyright claim. And like faculty, students have First Amendment rights to disseminate their own works. In short, instructors and students alike have legal interests in the works created as part of the classroom experience.

UMASS Code of Student Conduct

So what can instructors do when students post homework assignments, test questions, answers to problem sets, and other materials on note-sharing sites, such as Quizlet, StudyBlue, OneClass, and CourseHero? How can instructors effectively control the classroom experience, in the face of numerous note-sharing sites, and student copyright and First Amendment rights?

An instructor's first and most important tool is the syllabus. The syllabus enables the instructor to communicate to students their expectations for the course, and how students should handle course materials.

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Students Sharing Course Materials

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Instructors should clearly tell students what is and is not okay in terms of sharing course material, explain how it connects to the instructor's course expectations and the students' course experience, and where appropriate, connect it to the Code of Student Conduct. If appropriate, instructors should explain that because this is related to assessment of student work, it is therefore part of the Code of Student Conduct (http://www.umass.edu/dean_students/codeofconduct).

For example, a syllabus can state "Because grades are determined in part by course exams and homework assignments, sharing course materials or exam questions with other students is prohibited in this class. Violation of these guidelines may constitute academic dishonesty, which is prohibited by the Code of Student Conduct and subject to disciplinary action."

If students violate the stated expectations about sharing class materials, instructors now have recourse to student disciplinary procedures, and, perhaps more importantly, a way to discuss these issues with the students. The Code of Student Conduct enables instructors to articulate classroom norms, regardless of whether there are copyright interests in the materials your students share. This tool is available to instructors whether you are disseminating highly original and creative assignments and writings, or whether you are merely lecturing with no recording, or whether they are providing content with little or no copyright interest.

But when tying expectations to the Code of Student Conduct, it is critical that instructors clearly communicate their expectations to students.

As with anything particularly important in the syllabus, instructors can make sure that students are aware of this by highlighting it in class. Once a problem has surfaced, instructors should contact the Dean of Students Office before confronting the student. Depending on the situation, other policies and issues may be implicated as well—the "Acceptable Use Policy" governs use of academic networks for marketing, privacy, data mining, etc., and the Office of Disability Services helps ensure that students with disabilities receive appropriate accommodations.

Copyright Takedown Notices

Syllabi and the Code of Student Conduct allow the greatest amount of flexibility for establishing classroom norms even when there is no copyright interest, but copyright takedown notices can be appropriate in some circumstances. Instructors who do have a clear copyright interest in a work being shared without authorization can send a copyright notice to a webhost where the content is being hosted. The Copyright Librarian (Laura Quilter) is happy to help any campus instructor with that process. We have basic information online at <http://library.umass.edu/copyright/>, but you should talk with us first – if a takedown notice is done improperly or overbroadly it may not be responded to, or worse, could actually expose the instructor to legal liability. ■

Resources

The campus has a number of resources available to instructors to help them communicate with students, establish classroom policies for course materials, and respond when those policies are violated.

Resources include:

Institute for Teaching Excellence & Faculty Development (TEFD), <http://www.umass.edu/tefd/> – Assistance in crafting syllabi and instructional approaches.

Dean of Students Office, http://www.umass.edu/dean_students/student_services – Contact for support in dealing with a student issue.

Office of Disability Services, <http://www.umass.edu/disability/> – Provides services and support to students with disabilities, and to instructors who need to offer accommodations. Note-taking is a common accommodation, and Disability Services has contracted with Luvu (FlashNotes) to provide access to course notes to students with disabilities.

Ombuds Office, <http://www.umass.edu/ombuds/> – Off-the-record mediation and conflict resolution services.

Provost's Office and Office of the Dean of the Graduate School – Process Academic Honesty and Grievances.

Student Legal Services Office, <http://www.umass.edu/rso/slo/> – Support for students in dealing with a wide variety of legal concerns, including Code of Student Conduct violations

Copyright Services, Scholarly Communication Office, <http://library.umass.edu/copyright/> – Support for understanding copyright issues, including sending or responding to copyright takedown notices.

UMass IT Acceptable Use Policy, <http://www.it.umass.edu/security/acceptable-use-policy>

UMass Code of Student Conduct, http://www.umass.edu/dean_students/codeofconduct

Spotlight: Kate Hudson

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Compared to thirty years ago there is much less campus-wide involvement, and this is something I hope to work on within the MSP. I am excited about being involved in this process. Although I am new to the MSP, because I've spent most of my life on campus—they were building this library when I started coming to campus with my dad—I have some frustrations with how things have turned out. Although it is easy to be pessimistic, I just have to keep plowing forward. ■





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