Welcome to Copyright in the Academic Environment, Part III: Copyright and Accessibility: Chafee Amendment, ADA and Section 504.
Part I of this series outlined our exclusive rights as copyright holders, and Part II explored the limitations on those rights when we make Fair Use of protected content in the public interest through teaching and scholarship. This presentation uses copyright jurisprudence to comment on the use of copyright-protected material for purposes of accessibility. We will discuss how to meet our obligations to students under the Americans with Disabilities Act (1990) and Section 504 of the Rehabilitation Act (1973) in light of the Chafee Amendment to copyright law.
DCCC strives to provide inclusive and accessible educational programs as regulated by the Americans with Disabilities Act of 1990 Title II (State and Local Governments) and Section 504 of the Rehabilitation Act of 1973. Together, these acts speak to the obligations of public colleges, and colleges receiving funds from the US Department of Education, in ensuring equitable access to education programs for students with disabilities. Both acts require the provision of auxiliary aids to ensure effective and accessible communication for students with visual or hearing impairments. Under ADA, primary consideration is given to the student’s preferred auxiliary aid or service, when reasonable.

US Department of Education Office for Civil Rights synthesizes the responsibilities of postsecondary institutions under both Section 504 and ADA Title II in the guide, "Auxiliary Aids and Services for Postsecondary Students with Disabilities" (1998): http://www2.ed.gov/about/offices/list/ocr/docs/auxaids.html
Copyright law also provides for the use of protected works for purposes of accessibility, including under 17 USC § 121 (the Chafee Amendment). The Association of Research Libraries provides further guidance on the Chafee Amendment and Fair Use and on captioning under copyright law in light of equitable access to library resources and services: http://www.arl.org/focus-areas/copyright-ip/fair-use/code-of-best-practices/2445-briefing-accessibility-the-chafee-amendment-and-fair-use and http://accessibility.arl.org/2016/04/captioning-and-copyright-law/
Copyright and Accessibility

Fair Use, Chafee Amendment
Protect uses in the interest of accessibility

TEACH Act
Use should augment inaccessible content; not substitute for commercially-available accessible content

Fair Use mediates the rights of copyright holders and those of students to auxiliary aids for purposes of accessibility where:

• a protected work is adapted, or a derivative work produced (such as captioning or transcribing a video)
• the adaptation or derivative is produced as an auxiliary aid to provide reasonable accommodation with respect to students' access to an educational experience or service
• consideration of the adaptation or derivative in light of the four factors is otherwise favorable to Fair Use, including
  • original work is a lawful copy
  • no accessible version of the work is commercially available
  • use of the adaptation or derivative is restricted to students requesting accommodation and enrolled in the course for which the material is being used
  • use of the adaptation or derivative is limited in duration
• the adaptation or derivative also complies with the TEACH Act, including
  • does not replace "material in any media,. which are typically purchased or acquired by the students in higher education for their independent use" (17 USC §110(2))
  • does not replace equivalent accessible material marketed for online learning
  • use of the material in the context of an instructor-directed learning experience is consistent with that of a face-to-face class.
Permission should be obtained for use of copyright-protected works in excess of Fair Use and the TEACH Act.
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