Copyright in the Online Environment

Best Practices for MCCCD Faculty

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Objectives

- Understand the background to copyright law
- Learn about copyright processes, including the Public Domain, Fair Use, and the TEACH Act
- Learn about the copyright issues affecting online courses
- Develop familiarity with library resources that can be used in online courses
- Understand how to request permissions

What can be copyrighted?

- Four Requirements:
  - Expression of ideas
  - Original work of authorship
  - Modicum of creativity
  - “fixed in any tangible medium of expression, now known or later developed, from which [the works] can be perceived, reproduced or otherwise communicated, whether directly or with the aid of a machine or device”
    - (Copyright Law, Title 17, U.S. Code, Section 102)



Copyright Holder Rights



- Copyright Law, 1976
- Title 17, U.S. Code, Section 106
  - A statutory privilege, giving the creator:
    - the right to reproduce or copy
    - the right to prepare derivative works
    - the right to distribute copies to the public
    - the right to perform or display the work publicly (for audiovisual, literary, dramatic, pictorial, etc.)

Copyright Facts

- No need for registration or © copyright notice in U.S., since Berne Convention, 1989



- A good idea to register, in case of a violation
  - www.copyright.gov
- Misconception—if it's on the Web, it's free. Material on the Web is subject to the same laws of copyright as printed materials

Online Course Resources

- Magazine/journal articles
- Book excerpts
- Images/graphics
- Film clips
- Music clips
- Web sites
- Learning objects



Copyright Quiz





Copyright Scenario 1

- A humanities instructor has found some wonderful film clips and images from various commercial websites. Since they are freely available on the web, she has copied them and inserted them in her new online film class.
- Is this a copyright violation?



Copyright Scenario 2

- A professor finds an out-of-print book that illustrates the competencies for his online course better than any current textbook he can find. Since the book is out of print and copyright is therefore not a concern, he scans three of the eight chapters as a PDF file w
  he links from his course.
- Is this legal?



Copyright Scenario 3

- A professor posts in her Course Management System a copy of an unused, commercially-printed workbook which corresponds to her course. Each student is required to print the workbook pages and submit them, instead of having to purchase the book. Since the professor owns the workbook and this is a password-protected online course, she knows this is Fair Use.
- Is she right?



Avenues for Use

- Public Domain (govt. works and those whose copyright has expired)
- Fair Use
- TEACH Act
- Library subscription databases (including persistent links)
- Free Web links
- Learning object repositories
- When all else fails—Permission!

Public Domain Chart

Adapted from "The Illustrated Story of Copyright," by Edward Samuels, p208.

Works created as of these dates	Duration of copyright	Explanation
Published before 1923	Already in Public Domain	Originally 56 years at most, extended to 75 years in 1976
Published 1923-1977	If published with © notice and renewed in 28th year, copyright lasts for 95 years from publication date	Originally 28 years, renewable for 28 more years, extended to 75 years in 1976, extended to 95 years in 1998
Created after January 1, 1978	Life of author plus 70 years	Originally life plus 50, extended to life plus 70 in 1998 (Sonny Bono Extension)
Created before 1978, not yet published	Life plus 70 years or until 2002, whichever is later. If published by 2002, extended to 2047	As unpublished works, these would have gone on forever, but were given the listed terms by the 1976 and 1998 acts



Complete Copyright, by Carrie Russell.

Public Domain

- Works produced by the U.S. federal government
  - Projects of non-government officials with federal funding may be copyrighted
  - State government works may be copyrighted



- For detailed Public Domain timelines, see:
  - When U.S. Works Pass into the Public Domain
    - Lolly Gasaway, UNC
    - http://www.unc.edu/~unclng/public-d.htm

Fair Use



“What is ‘fair use’?”

© Bion Smalley (*The Illustrated Story of Copyright*, by Edward Samuels, p.190)

Fair Use exemption—U.S. Code Title 17, Section 107

Four Factors

- Purpose and character of the use
  - How are you using the work?
- Nature of the work
  - What kind of work is it?
- Amount and substantiality of the portion
  - How much of the work are you using?
- Effect of the use
  - What effect will your use have on potential sales or permissions?

Factor I: Purpose of the Use

Favoring Fair Use	Opposing Fair Use
Teaching	Commercial
Research	Entertainment
Non-profit educational institution	For-profit educational institution
Personal	Failure to attribute to original author
Restricted access	

Factor II: Nature of the Work

Favoring Fair Use	Opposing Fair Use
Published work	Unpublished
Factual, non-fiction	Fiction
	Highly creative

Factor III: Amount of Work

Favoring Fair Use	Opposing Fair Use
Small amount	Large amount or whole work
Portion is not central to the work	Segment is central to the work, even if small amount—"heart of the work"

Factor IV: Effect on Market

Favoring Fair Use	Opposing Fair Use
Already own a copy	Could replace sale of the work or affect market for permissions
Reproducing only 1 or a few copies	Making numerous copies
Restricted access	Making available on free web
No well-developed permissions market	Permission for use or licensing is readily available
	Long-term or repeat use

Digital Millennium Copyright Act

- October 1998 Amendment to copyright law to address issues in the digital environment
- Congress directed the U.S. Copyright Office to conduct a study of the use of copyrighted works in digital distance education, and to recommend changes
- The report, released May 1999, ultimately led to the TEACH Act

The TEACH Act

- Technology, Education and Copyright Harmonization Act
- Replaced Section 110(2) of the Copyright Law
- Became law in November, 2002
- Allows for use of copyrighted works in Distance Learning
- Many required conditions before TEACH can be applied

TEACH Act Requirements

- Institutional Responsibilities
  - Non-profit, accredited
  - Copyright Policy
  - Provide Materials for Copyright Education
  - Copyright notice in course
  - Provided only to registered students

More TEACH Act Requirements

- Faculty Responsibilities
  - Not already available as a digital educational work
  - Lawfully made or acquired
  - Part of a mediated class session (not textbooks, course packs or e-reserves)
  - Directly related to what you are teaching
  - Non-dramatic literary or musical work--all
  - Reasonable portion of any other work—analogous to live classroom

More TEACH Act Requirements

- IT Responsibilities
  - Work retained for duration of “class session” (not defined)
  - Copy- and download-disabled
  - Limited to students enrolled in class
  - No interference with technologies used by copyright owners to prevent retention or dissemination

More TEACH

- TEACH specifically excludes:
  - Works marketed primarily for educational digital performance or display
  - Copies that aren't lawfully acquired
  - Conversion of analog to digital formats, unless no digital version is available

TEACH in MCCCD

- Institutional requirements met by District Office, re copyright policy:
- http://www.dist.maricopa.edu/legal/ip/
- Remaining institutional, faculty and IT requirements specific to individual colleges
- Substantial effort required before TEACH can be implemented

Finding Good Stuff



Public Domain Book Collections



- Project Gutenberg
  - http://www.gutenberg.org/
- Online Books Page, University of Pennsylvania
  - http://digital.library.upenn.edu/books/index.html
- Bibliomania, free online literature
  - http://www.bibliomania.com/
- Knowledge Rush Online Books (Australia)
  - http://www.knowledgerush.com/books.htm

Public Domain Images and Music

- American Memory Project (Library of Congress)
  - http://memory.loc.gov/ammem/
- NASA Image exchange
  - http://images.jsc.nasa.gov/
- Public Domain Music
  - http://www.pdinfo.com/list.htm

Learning Object Repositories

- *Merlot:* www.merlot.org
  - Look for licensing conditions under each learning object
- *MLX:*http://www.mcli.dist.maricopa.edu/mlx/index.php
  - Maricopa Learning Exchange, licensed under Creative Commons
- *Creative Commons:*
  - http://creativecommons.org

Library Resources

- Subscription databases
  - AP Photo Archive
    - Rio, Glendale, Gateway
  - Persistent Links
    - EBSCO
    - Thomson Gale (Infotrac)
    - ProQuest
    - Wilson Select
    - Newsbank
    - Ebrary e-books











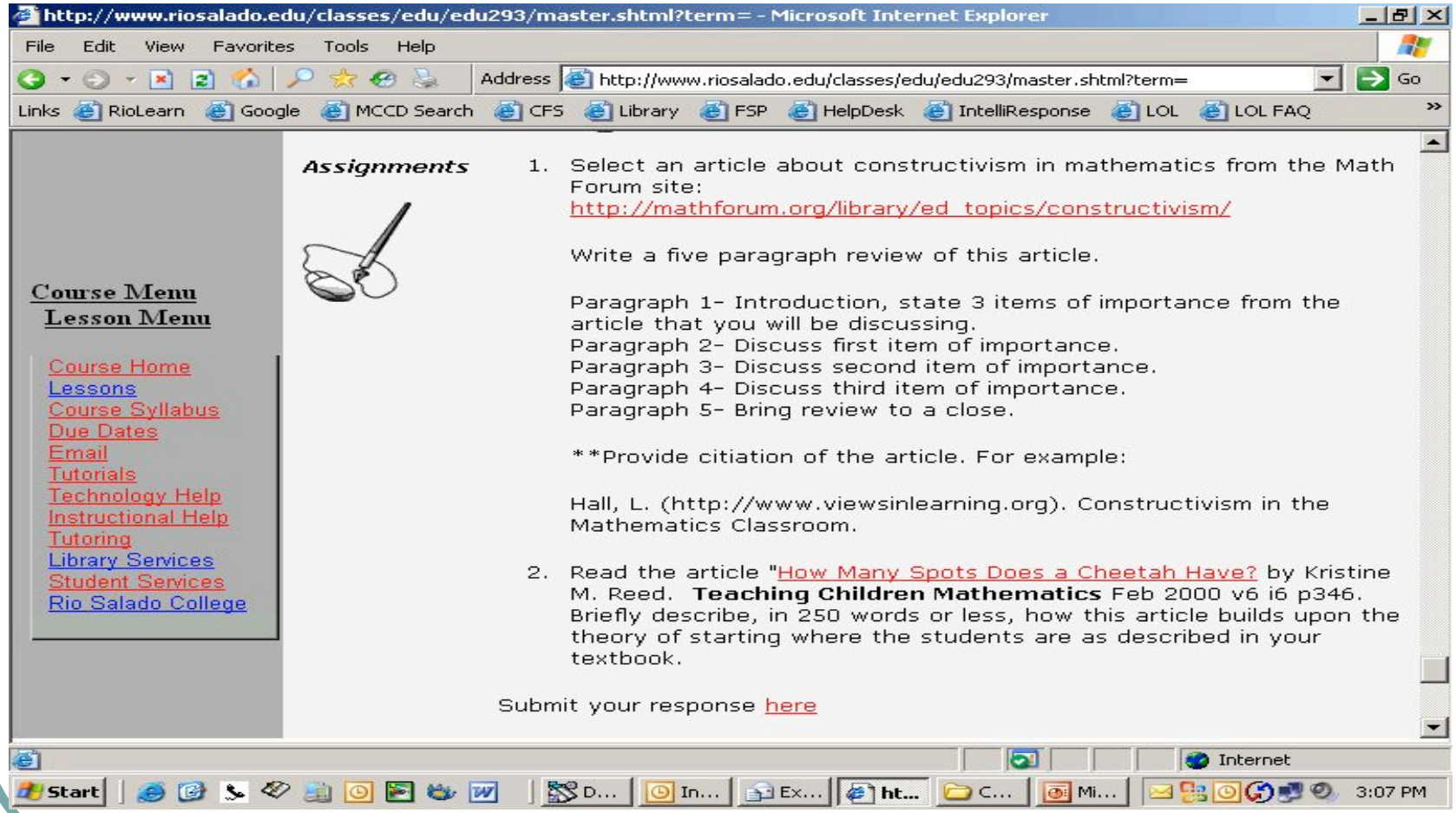




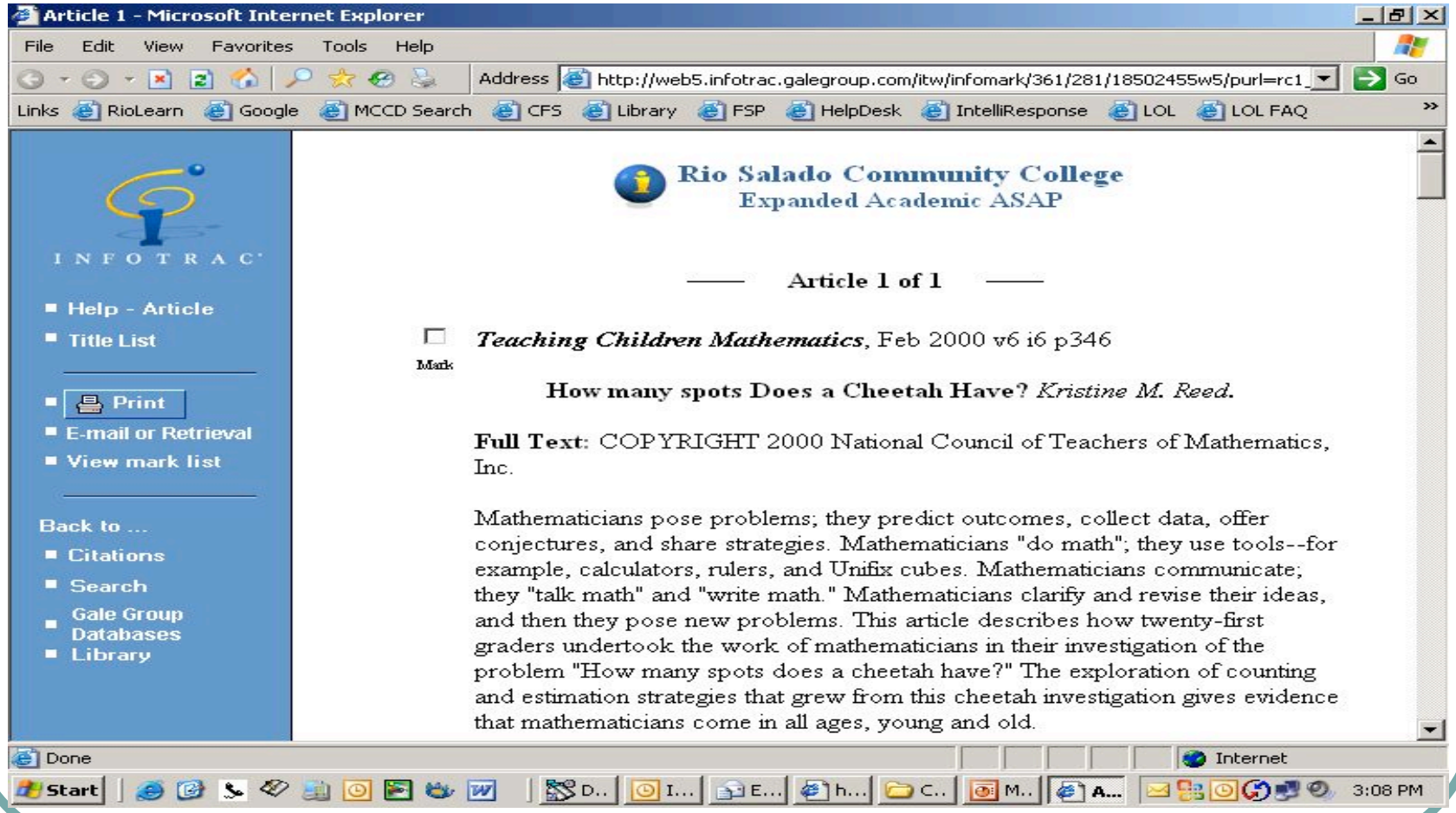
Library Resources—Persistent Links

- Subscription already paid
- No permissions costs
- Encourages use of expensive databases
- Quality, scholarly resources
- Contact your librarian for help or more information

Persistent Links



Persistent Links



Links from Free Web



- No permission needed for a simple link
- Open link in new window, with original URL showing
- Do not frame linked content within your CMS
- Watch for deep linking
- Do not use a copyrighted image, logo or TM as the hyperlink

When All Else Fails—Permissions!

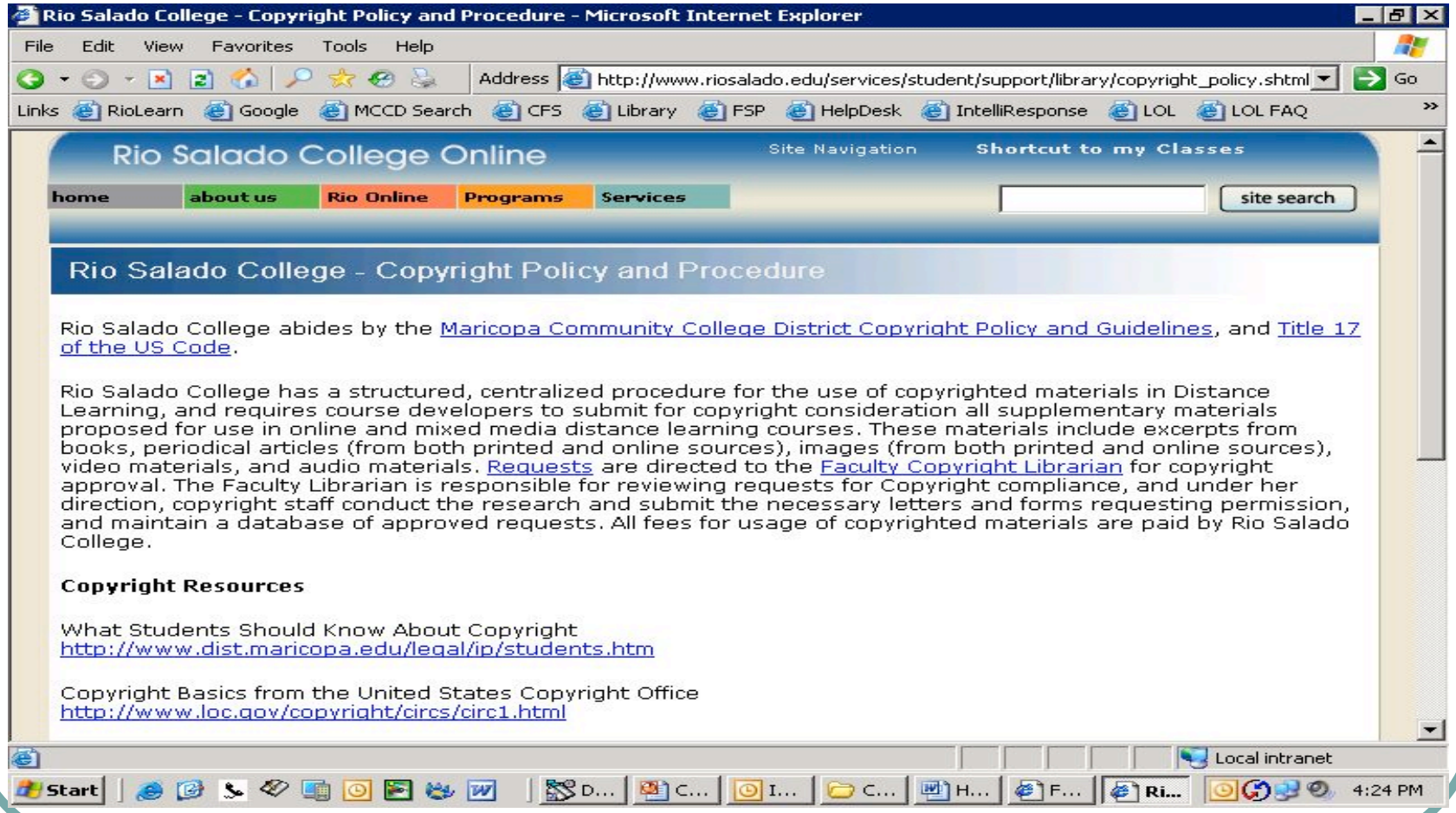
Finding the copyright holder

- Look at your item for copyright information
  - Copyright Clearance Center for print works
    - www.copyright.com
  - Websites of major publishers
  - Website of producer of media
  - Individual copyright holder
    - Secure permission in writing (e-mail is fine)

Copyright Process at Rio Salado

- Centralized process
- Faculty Librarian heads department
- Copyright permissions and licensing of materials (video, DVD)
- Course developers submit items for copyright clearance
- Copyright staff maintains database of materials
- Systematic process for renewals

Rio Copyright Information



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And the answers are….



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Best Practices

- Include a copyright attribution page in your course
- Acknowledge sources of all materials used
- Keep copies of all correspondence
- Document all contacts—telephone calls, etc.
- Negotiate if copyright fees seem too high

Questions?

