

## Comments on "Promotion of Distance Education Through Digital Technologies"

February 5, 1999

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I am submitting the following comments to the "Promotion of Distance Education Through Digital Technologies" request to support expanded access to digital materials for students enrolled in distance education programs, recognizing the special circumstances under which they operate. In accordance with the instructions in the *Federal Register*, vol. 63, no. 246, I will respond to the specific questions posed by the Copyright Office.

### *1. The Nature of Distance Education*

- a) Distance learning occurs when students and instructors are separated geographically from one another and possibly from other classmates as well. Because of the geographic diversity, many students are only able to access materials through digital formats, such as Internet presentations, electronic mail, or programs on CD ROM. While the quality of distance education remains comparable to onsite education in terms of learning, it differs from onsite education in several other ways. One, communication between instructors and students rely on electronic formats, such as chat programs, electronic mail, or threaded web discussion groups. Two, distance education has been described as more "student centered." Through closer contact with the faculty and anytime, anywhere interaction with classmates, the distance education student often shapes the flow and content of the instruction on an ongoing basis. Faculty members often need the capability to respond to student needs by spontaneously providing materials that supplement the planned instruction. They cannot take the time to apply for permission and then mail the materials overseas or across the country. For a dispersed group of students with varying onsite library resources, digital transmission of information and materials is critical. The course web pages become the Reserve Desk and the link to the learning materials. An unrestricted flow of materials from the instructor to the student group is an essential component of distance education.
- b) The distance education programs at the GW School of Public Health & Health Services primarily utilize web-based instruction with some courses supplemented by video programs created by faculty. Web based discussion groups, electronic mail, and interactive forms promote interactivity. In September 1999, the courses

will also offer chat services to supplement the predominant asynchronous communication flow. Access to the communication media among students and faculty is private, requiring passwords to access the web discussions and permission to join course related listservs. Instructors keep copies of their interactions electronically and in printed form for archival purposes. These materials are used to evaluate student and program performance. While the public is currently able to access the didactic information on the course web pages, the public cannot access any course-related discussions.

- c) Faculty members compose didactic materials to supplement readings and assignments, which anyone may access. Incorporating content-heavy materials freely available on the course pages enriches the web overall. Pages where students access discussion groups or published materials are securely passworded. Students are taught that the materials exist only for their individual use and cannot be shared or copied for others. A copyright statement precedes the page where the material is loaded.
- f) The students enrolled in our program represent a wide range of geographic areas and income levels. Many students live abroad; many in remote, rural areas of their countries where library services are scarce. Distance education can widen educational opportunities to students who cannot afford to move away from their jobs or to live in areas where universities exist. It provides increased access to people whose personal circumstances may preclude enrollment in programs in higher education. Because our population is internationally diverse, we cannot expect them to pay interlibrary loan fees to access materials from our School's library. For a majority of our students living in South Africa, they would be charged \$72 per article faxed from the U.S. at present currency exchange rates. This creates an undue and extreme burden on them. The ability to provide digital access to library materials is essential.
- g) Our courses are offered for credit in different certificate programs. Some of our students may enroll in a degree program on campus while others are enrolled in degree programs within their countries and take specific courses with us. All students receive GW graduate credit.

## 2. *Role of Licensing*

- a) The distance education program utilizes the services of the Himmelfarb Health Sciences and the Gelman Libraries to provide access to licensed materials, such as bibliographic and full-text databases. Instructors try to use the full-text articles available through this licensing arrangement when they are available. As enrolled students, our distance education population has the same rights to these collections as onsite students. All students use a University generated or social security number to gain access to the databases.

- b) For materials that are deemed necessary by faculty, which are not available in the databases or in the public domain, the Distance Education office secures copyright permission to distribute copies of the articles before classes begin. However, many readings are determined by class discussions and needs encountered during the course of the instruction. Many materials exist on the web or exist in government sponsored publications, such as those from the Centers for Disease Control and Prevention (CDC). For materials that are not in the public domain, the fair use provision applies. An article is scanned and placed on a passworded web page with access restricted to enrolled students. Students must pass through a page with a copyright warning and also receive email messages with instructions to observe copyright restrictions. Fair use in the distance education environment is critical in disseminating timely information to our students. Because our students do not have any other means for visiting a library, the web page becomes the medium through which students access library- or faculty-owned materials. In view of these special circumstances, no restrictions should apply in regard to the amount of material digitized from a publication. However, the provider must provide the necessary security and education to guarantee that these materials are not redistributed in any form.

3. *Use of Technology*

- c) Password protected pages are used to protect the unauthorized use of an copyrighted material. Only enrolled students receive the passwords to these pages with warnings about sharing them with others. Search engines cannot identify these pages. Student security numbers controls access to licensed databases.

4. *Application of Copyright Law to Distance Education*

Fair use should be broadened for distance education programs in order to maintain equity with the rich resources students access on campus. While students should be held to copyright restrictions on making additional copies and sharing passworded materials, students registered in a non-profit educational institution should have unrestricted access to journal articles and other materials not available to them in local libraries or too expensive to obtain through interlibrary loan. This expansion of fair use should be accompanied by security measures to protect unauthorized access, such as course level passwords, and restrictions on the time allowed to maintain the material on the web page, such as the length of a semester. Electronic mail must also be considered as a medium to deliver digitized materials to groups of students who may not have web capabilities.

In summary, the modalities and logistics of distance education require that fair use provisions of the Copyright Act be liberalized to provide equity for geographically dispersed students without burdening them with additional fees for materials required for their course work.