Can a faculty member show a clip from a movie without getting permission from the studio? Can she hand out a chapter from a book to her students or content from a blog or e-magazine?

Faculty members and other campus members can now turn to Anthony Davis, copyright and policy librarian in the Pollak Library, for answers.

Davis, who joined the campus six years ago, describes his position as a hybrid between a librarian and an information policy analyst. He holds an MSI in information economics, management and policy from the University of Michigan and has completed two years of postgraduate work at the University of Delaware library.

Guiding Faculty on Intellectual Property

"Most people with this degree serve as consultants with think tanks and other agencies," he explained. "My job entails getting and maintaining the licensing to offer electronic resources and databases, e-books and e-magazines. In addition, Davis conducts analysis on various policies, such as Section 508 of the Amendment to the Rehabilitation Act of 1973, requiring agencies to make electronic and information technology accessible to people with disabilities.

Davis currently is working with Jennifer Faust, associate vice president for academic affairs, on information technology policies governing faculty. "Many are outdated and in need of modernization, so we're looking to anticipate improvements before they are reviewed by the Faculty Affairs Committee and finally considered by the Academic Senate."

A key part of his job involves copyright and intellectual policies. "Job No. 1 is answering questions from faculty members and others. The bulk of questions concern the sharing of copyrighted materials with students," he said. "What can faculty share? When and how can they share an article, a movie, etc.? And when do they have to receive permission to do so?"

At issue is fair use, he said. This is a doctrine that permits limited use of copyrighted material without acquiring permission from those who hold the rights.

"Professors and students follow fair use policies. For professors, 'multiple copies for classroom use' is actually written into the law," said Davis.

Understanding 'Fair Use'

"The trouble with fair use is that it requires a judgment on the professor or student's part using four specific criteria: purpose of the use, nature of the work, amount and substantiality of the work used, and the effect on the market for the original," Davis explained.

An example is a master's student who wanted to build curriculum for K-12 students in the arts, said Davis. "He wanted to use famous paintings to teach students technique by digitally painting over the originals. These are the types of innovations that fair use is meant to enable."
"In that case, the issue is not only copyright, but transformative use, which allows for some creativity in using material," he explained. "Making the call — that's at the heart of the matter. And as far as I know, I'm the only one on campus who is doing this.

"Really when you think of intellectual property there are a lot of nuances."

Davis, who has been certified in policy development and copyright, struggles to stay on top of the laws and court challenges. Things can happen quickly.

"Of the several lawsuits decided this year, the biggest was the Georgia State University decision, where three scholarly publishers sued GSU for distributing book chapters in the form of articles to students through course management systems, library electronic reserves and faculty websites," he noted. "The court found in favor of Georgia State.

"I pay attention to the court rulings on fair use, so faculty don't have to worry about keeping up with every detail," he explained.

The Price of Monopoly Control

"Knowledge is created by shared uses, but it must be handled properly. Copyright on the surface can appear to be really boring, but when you get down to it, it can get very personal. You're talking about using someone else's property in a way that doesn't allow them to profit. But that's the price of monopoly privilege.

"It all comes down to students learning. That is the main thing."

Reaching out to the campus community

Davis maintains a website (https://campusapps2.fullerton.edu/CopyRight) for faculty members that provides copyright and other information, including where they can request digitization of films. He consults with faculty and other campus members and also shares information through programs offered through the Faculty Development Center.

Davis also conducts research and writes articles. He recently authored an article on fair use from an economic-anthropological perspective. "It explains the way fair use limits the market economy to allow scholarly articles to be distributed through a social economy without the copyright holder's consent. Currently, I'm researching open access scholarship and social economy. I'm fascinated with the possibility that scholarship may be best distributed in economies based on reciprocity."

His article, "Fair Use: Articulating the Liberal Approach" (http://www.press.jhu.edu/journals/portal_libraries_and_the_academy/portal_pre_print/current/articles/12.2davis.pdf), was published in the April issue of portal: Libraries and the Academy.

By: Pamela McLaren (mailto:pmclaren@fullerton.edu), 657-278-4852