

Protocol for Publishing Teaching Materials in the Virtual Classrooms of the ULL

In recent years, the virtualization of part of the teaching activity at the University of La Laguna (ULL), made possible through information and communication technologies, has allowed supplementary teaching materials, such as readings, documents and texts, to be included in virtual classrooms. This may unintentionally infringe regulations governing intellectual property rights.

As a public institution, the ULL uses this Action Protocol¹ for all teaching and research staff when they include materials in their virtual classrooms. Given the complexity of the issue, questions may arise regarding when such actions, aimed at making materials available to students to support the learning process, might conflict with author's intellectual property rights, even when such use takes place solely within a university intranet.

The ULL, committed to safeguarding protected legal interests (namely authors' rights and students' right to education), establishes the following guidelines for teaching and research staff when making materials available to students:

1. Rules applicable to the reproduction or literal scanning of books, articles, and documents subject to open or free intellectual property rights

For these purposes, the following are considered open-access documents² and, as such, may be freely shared without restrictions:

- a) The content of official gazettes such as the Official Journal of the European Communities (OJEC), the Official State Gazette (Boletín Oficial del Estado, BOE), Official Gazettes of the Autonomous Communities, among others.
- b) The text of judicial decisions, with the recommendation that versions available in public databases (for example, the Judicial Documentation Centre (Centro de Documentación Judicial, CENDOJ) be used whenever possible.
- c) Content published under copyleft licences, such as Creative Commons or similar, provided it is used within the limits established by each respective licence.
- d) Works which, having been financed with public funds, form part of the assets of the University of La Laguna (Article [80.5](#)³ of Organic Law 6/2001 of 21 December, on

¹ Circulated by the General Secretariat of the Conference of Rectors of Spanish Universities (GSCRSU), and prepared by the General Secretariat of UNED, which has expressed its consent for it to be used by other universities.

² The term "document" also includes those in digital or audiovisual format.

³ <http://www.boe.es/buscar/act.php?id=BOE-A-2001-24515#a80>

⁴ <http://www.boe.es/buscar/act.php?id=BOE-A-2011-4117#a53>

⁵ <http://www.boe.es/buscar/act.php?id=BOE-A-2011-4117#a54>

Universities, and Articles [53⁴](#) and [54⁵](#) of Law 2/2011, of 4 March, on Sustainable Economy), or which, by agreement with other research centers, are accessible in the institutional repository <http://riull.es> or in any of the repositories of the “Recolecta” network.

- e) Digital versions of works published in open access because they were funded by the General State Budget, under [Article 37⁶](#) of Law 14/2011 of 1 June, on Science, Technology and Innovation.
- f) Works that, by their authors’ decision, have been incorporated into public repositories with free and unrestricted access, under the terms established therein, in accordance with the Third Additional Provision of Law 23/2006 of 7 July, promoting the dissemination of digital works.
- g) Doctoral theses published by universities in accordance with Article 21.4 of Royal Decree 1393/2007, as amended by Royal Decree 99/2012. When the text considered of interest for the course can be found both in the doctoral thesis and in a later work by the same author, the original thesis must be reproduced for the duration of the procedure for obtaining the doctoral degree (public display period). This publication does not confer copyright and will be a URI that, in many cases, expires.
- h) Works that, due to their age, are in the public domain⁷.

2. Making proper use of the right of quotation and of illustration for teaching:

The right of quotation, as defined in [Article. 32⁸](#) of the Intellectual Property Law, consists of “the inclusion in one’s own work of fragments of others’ works of a written, sound or audiovisual nature, as well as isolated works of a plastic, figurative photographic or analogous character, provided that they are works already disclosed and their inclusion is made by way of quotation or for analysis, commentary or critical judgment. Such use may only be made for teaching or research purposes, to the extent justified by the purpose of the incorporation, and must indicate the source and the author’s name of the work used.”

From the foregoing, it follows that the use of third-party material within virtual teaching materials must comply with the following:

- When the written text to be included comes from third-party works published in print and subsequently scanned, it shall be converted into a text document using OCR software, and its incorporation into the virtual classroom must be carried out with

⁶ <https://www.boe.es/buscar/act.php?id=BOE-A-2011-9617&p=20110602&tn=1#a37>

⁷ A possible tool to facilitate the calculation is provided in the following diagram by Pedro Jiménez, under a CC-BY licence, at the following link: <http://13festival.zemos98.org/sites/13festival.zemos98.org/IMG/pdf/CalculadoraDominioPublico.pdf>

⁸ <http://www.boe.es/buscar/act.php?id=BOE-A-1996-8930#a32>

elaboration, including a precise reference to the source and the author's name, in accordance with the methodological criteria applicable in each case. The collected paragraphs must be interspersed with the lecturer's annotations, providing clarifications, precisions, assessments or, at the very least, relating them to other references.

- Use must be proportionate: no more material than necessary to illustrate the topic under explanation or analysis should be reproduced, ensuring that its use is justified by the intended purpose.

3. Links to web pages where documents of interest for the virtual course appear:

When a document of interest for the virtual classroom is accessible on a web page, the doctrine of the Spanish Provincial Courts allows the inclusion of a hyperlink to the document. Good practice dictates it should be accompanied by the corresponding citation and, where appropriate, by any comments necessary to contextualize the text.

If a reliable notice is received from the author, or from the person exercising their rights on their behalf, indicating that the link included in the teaching material refers to a work whose publication is not duly authorized, it must be removed.

4. Regarding the literal reproduction or scanning of books, articles, and other documents subject to restrictive intellectual property rights:

Files containing all or part of books, articles, and other documents (the term document also includes those in digital or audiovisual format) protected by the Intellectual Property Law may be included when prior authorization for use has been obtained from the author, or, if the author has assigned exclusive exploitation rights or management of the work to a publishing house or collecting society, permission must be obtained from them for its total or partial publication, in addition to what has been indicated concerning ownership of the works resulted from publicly funded research after 24 months from publication. The consent of copyright holders for the use of their works as teaching material shall be formalized through a total or partial assignment agreement. In any case, in order to conclude these assignment agreements when they entail a cost for the ULL, they must be authorized in accordance with the corresponding internal procedure.

Express authorization from the author will also be required for any transformations of a literary, artistic, or scientific work. Notwithstanding the foregoing, once the document has been published, if the lecturer-user of the materials receives a request from the author asking for its removal, they must contact the Virtual Teaching Support Unit (UDV) to assess whether such removal is appropriate.

Text advised by Dr Luis Fajardo López, Lawyer and Associate Professor of Civil Law at the Universidad of La Laguna.

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