How much of a video (film, movie, etc.) can I use in my online course or D2L under the TEACH Act and/or Fair Use?

**Flowchart**

Is the video a lawfully made copy and lawfully acquired?

Yes  No

Is the video produced or marketed primarily for online educational purposes?

No  Yes

Is the video in the public domain?  (copyright expired, copyright transferred to public domain by copyright owner, video is a work of the U.S. Government.)

Yes  No

Do you have written permission from copyright owner to use the video in your online course?  (letter, email, creative commons license, institution/library subscription, etc.)

Yes  No

Is the video an “Orphaned Work?” An orphan work is a work no longer in publication and the copyright owner is unknown.

Yes  No

Does your college/university comply with the requirements of the TEACH Act? Use the TEACH Act Checklist to make this determination.

Yes  No

Are your circumstances “unique” so they constitute “Fair Use”? Use the Fair Use Checklist to determine if Fair Use applies to your situation. **Note:** If a streaming license is available for a reasonable cost, you cannot play the entire video or a significant amount under a claim of fair use unless the impact would be de minimus on the streaming market for the video.

Yes  No

You can use the entire video in your online course, or as much of the video as authorized by the copyright owner.  You can use REASONABLE and LIMITED PORTIONS of the video in your online course as authorized by the TEACH Act. See *Senate Notes.*  You can use the amount of the video that is justified under FAIR USE, which may range from a small portion to the entire video in unique situations.  You cannot use any portion of the video in your online course.