

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

NATIONAL COUNCIL OF TEACHER QUALITY, INC.,

Appellant

v.

CURATORS OF THE UNIVERSITY OF MISSOURI,

Respondent

DOCKET NUMBER WD76785

DATE: August 26, 2014

Appeal From:

Circuit Court of Boone County, MO
The Honorable Kevin Crane, Judge

Appellate Judges:

Division Four
James E. Welsh, C.J. Presiding, Lisa White Hardwick, J., and Kevin Harrell, Sp. J.

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**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

NATIONAL COUNCIL OF TEACHER QUALITY, INC., Appellant, v.
CURATORS OF THE UNIVERSITY OF MISSOURI, Respondent.

WD76785

Boone County

Before Division Four Judges: Welsh, C.J.Presiding, Hardwick, J., and Harrell, Sp. J.

The National Council for Teacher Quality (the "NCTQ") brought this action against the Curators of the University of Missouri (the "University") to compel the University to disclose course syllabi under Missouri's Sunshine Law. The circuit court found for the University, determining that the requested syllabi were exempted from disclosure under the Sunshine Law by the Federal Copyright Act, and this appeal followed.

AFFIRMED.

Division Four Holds:

(1) The University complied with the Sunshine Law when it declined to reproduce or distribute the syllabi as the NCTQ requested because such reproduction and distribution would have constituted a violation of the Federal Copyright Act. Therefore, the syllabi, as requested, were protected from disclosure pursuant to Section 610.021(14), RSMo Cum. Supp. 2013, one of the exceptions to disclosure under the Sunshine Law.

(2) The "fair use" doctrine has no applicability to this case. First, federal courts have original jurisdiction of any civil action arising under the Federal Copyright Act, so this court lacks the authority to determine whether a particular use of copyrighted materials constitutes fair use. Second, contrary to the NCTQ's argument, there is no presumption of fair use. Third, the fair use doctrine is an affirmative defense to a

copyright infringement case and is not applicable in the context of Sunshine Law requests.

(3) The NCTQ's argument that the University lacked "standing" to invoke copyright protection is meritless because the University was not attempting to enforce copyrights owned by its faculty. Rather, the University was attempting to meet its burden of asserting and establishing an exception to disclosure under the Sunshine Law.

Opinion by Lisa White Hardwick, Judge

August 26, 2014

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