



Copyright Policy

United States University affirms the obligation of its faculty, staff, and students to comply with all Federal laws (Title 17, United States Code) regarding copyright. This principle underlies United States University's commitment to encouraging the responsible use of, the intellectual property of others. This policy affirms that copyright legislation exists to encourage the generation and distribution of intellectual works in order to advance the public good. Copyright law gives copyright holders (writers, publishers, artists, etc.) the exclusive rights to distribute, copy, perform, or publicly display, their own original works. The University recognizes its obligation to inform members of the campus community about this law, and to promote, within the various University constituencies, the exercise of the rights and responsibilities granted under this law.

Associates and faculty members are responsible for understanding the University's copyright policy and shall be accountable for actions that willfully disregard it. United States University's responsibility in this area is to provide faculty members, associates and students access to resources that allow determination of permitted uses. Faculty associates and students are responsible for seeking guidance and complying with the law.

United States University assumes that any questions regarding copyright, as they apply to materials for instructional or other University use, will be resolved prior to the use of those materials on any University-owned equipment or in any University-sanctioned activities. All members of the University community are responsible for complying with University guidelines regarding the legal use of copyrighted materials, regardless of their format or the purpose of that use, and for complying with the requirements of copyright law, including obtaining required permissions to use copyrighted materials. Faculty, staff, and students shall not exercise any rights under copyright law in a work owned by others unless one of the following applies:

- The work is in the public domain.
- The use of the work qualifies as fair use under copyright law.
- The use is permitted under Section 110 regarding performance or display of certain works in educational settings.
- They have prior written permission from the copyright holder or have paid appropriate royalties or licensing fees in exchange for usage rights.

Members of the USU community who willfully disregard this policy do so at their own risk and assume any liability, which may include criminal, and/or civil penalties.

The University Affordability and Opportunity Act (CAOA) of 2008

The University Affordability and Opportunity Act of 2008, which amends and extends the 1965 Higher Education Act, requires that institutions of higher education receiving Federal funding create institutional policies regarding the infringement of copyright. It mandates that they inform and educate their communities about copyright infringement, and that they certify that they have developed policies to prevent it.

Section 488 of the law requires that institutions of higher education, as part of that program make an annual disclosure that does the following:

- Informs students that the unauthorized distribution of copyrighted material (including peer-to-peer file sharing) may subject them to civil or criminal liability
- Summarizes the penalties for violation of Federal copyright laws
- Describes the institution's policies regarding unauthorized peer-to-peer file sharing, including what disciplinary actions may be taken against students who engage in the unauthorized distribution of copyrighted materials using the institution's information technology system



Peer-to Peer File Sharing-Penalties

(The following statement is adapted from: <http://www.copyright.gov/help/faq/faq-fairuse.html>)

Uploading or downloading works protected by copyright without the authority of the copyright owner is an infringement of the copyright owner's exclusive rights of reproduction and/or distribution. Anyone found to have infringed a copyrighted work may be liable for statutory damages up to \$30,000 for each work infringed and, if willful infringement is proven by the copyright owner, that amount may be increased up to \$150,000 for each work infringed. In addition, an infringer of a work may also be liable for the attorney's fees incurred by the copyright owner to enforce his or her rights. Members of the United States University community, including students, faculty, and staff, who are found to have, using the University's information technology system, downloaded or uploaded works protected by copyright may be subject to disciplinary action under the terms of the Bylaws of the Student Government Association (Judicial System), the Faculty Code (Termination or Sanctions for Cause), or the Staff Handbook (Section 405.3), as appropriate.

Whether or not a particular work is being made available under the authority of the copyright owner is a question of fact. But since any original work of authorship fixed in a tangible medium (including a computer file) is protected by Federal copyright law upon creation, in the absence of clear information to the contrary, most works may be assumed to be protected by Federal copyright law.

Since the files distributed over peer-to-peer networks are primarily copyrighted works, there is a risk of liability for downloading material from these networks. To avoid these risks, there are currently many "authorized" services on the Internet that allow consumers to purchase copyrighted works online, whether they be music, e-books, or motion pictures. By purchasing works through authorized services, consumers can avoid the risks of infringement liability and can limit their exposure to other potential risks such as viruses, unexpected material, or spyware.

For more information on this issue, see the *Register of Copyrights' testimony before the Senate Judiciary Committee*.

Digital Millennium Copyright Act (DMCA) of 1998

The DMCA was developed in response to concerns regarding the ease with which digital materials may be pirated and distributed, as well as to help clarify how copyright relates to those materials. The DMCA criminalizes the development of technologies that are intended to circumvent devices (such as passwords or encryption) that limit access to copyrighted material, and it also criminalizes the act of circumvention itself.

Institutions of higher education that act as Internet Service Providers are granted limited liability for copyright infringement involving the use of their networks under the DMCA if they take certain steps. These involve designating a local agent who would be responsible for receiving "take-down" notices regarding instances of infringement over the local network and for then effecting the "take-down" of the infringing material; they must have procedures in place for terminating the accounts of those who repeatedly appear to be infringing or who attempt to circumvent electronic safeguards for copyrighted content; they must take measures to guard against illegal access and additional distribution of copyrighted materials; they must develop a copyright policy and a copyright education program; and they may only utilize lawfully acquired copies.

Copyright Implications for USU

While the provisions of the University Affordability and Opportunity Act focus primarily on students, and specifically on peer-to-peer file sharing, and the DMCA deals with digital materials, it is important for all USU constituencies to respect copyright law and to set an example for members of the USU community in their use of the intellectual works of others, regardless of the format of the materials or the technologies used to access them.



Fair Use of Copyrighted Works

Fair use is a one-time arrangement. If you need to use the same material a second time (or multiple times) you must obtain permission. And, more than that, you must obtain that permission prior to each new use of the material (i.e., for each course in which it is used) unless an arrangement for multiple usage has been made with the copyright holder. The idea of fair use applies only when there is "spontaneity" involved in the usage of the material, that is, if there was insufficient time to obtain permission between the determination that the material would be used and its actual usage for an educational purpose.

If you are unsure of whether a use of copyrighted materials may constitute a fair use, faculty and students should educate themselves regarding the limits of fair uses and should in each instance perform a careful, good faith fair use analysis based on the four factors identified in section 107 of the federal Copyright act.

When using materials that are covered under fair use, students and teachers must include (directly on the paper copies or on any electronic copy) a statement indicating that the copy or electronic presentation has been prepared under the fair use exemption of the U.S. Copyright Law and is restricted from further use. You are required to document your fair use analysis as a defense against claims of copyright infringement. It is recommended you use the Fair Use Checklist and that this completed form be kept for a minimum of five years following the date of the last copyrighted item.

The Fair Use Checklist and variations on it have been widely used for many years to help educators, librarians, lawyers, and many other users of copyrighted works determine whether their activities are within the limits of fair use under U.S. copyright law (Section 107 of the [U.S. Copyright Act](#)). [Fair use is determined](#) by a balanced application of [four factors](#) set forth in the statute: (1) the purpose of the use; (2) the nature of the work used; (3) the amount and substantiality of the work used; and (4) the effect of the use upon the potential market for or value of the work used. Those factors form the structure of this checklist. Congress and courts have offered some insights into the specific meaning of the factors, and those interpretations are reflected in the details of this form.

Unless you know for certain that an item is not covered by copyright, or you are confident that your use of the item falls within the fair use guidelines, you are obligated to seek permission for the use according to United States copyright law.

Obtaining Permissions

It is the responsibility of the individual (whether faculty, staff, or student) who is using copyrighted materials to seek permission to use those materials if fair use does not apply. You must obtain a letter or other documentation from the holder of the copyright or his/her legal designee that grants the individual the right to use the specified portion of the work for a specified purpose on a specified occasion or for a specified period of time. The method for obtaining permission may vary depending upon the nature of the material you wish to copy, but the general process is outlined below. Links to websites that give more specific information are provided.

- First determine if permissions is needed. <http://www.librarycopyright.net/>.
- You can contact the Copyright Clearance Center, a non-profit organization that provides content licensing services. For many titles, you can apply online, pay the licensing or royalty fee to the CCC, and receive instant permission, the process can, on rare occasions, take weeks or months. The CCC does not work with all publishers or rights holders.
- If you are not working with the Copyright Clearance Center or another content licensing service, contact the publisher of the materials you would like to use (if the publisher is still in business) directly. Look specifically for a "permissions department." You may be asked to fill out a permission request form or to write a letter detailing your request.
- Write the letter or fill out the publisher's form. You should include the following kinds of information:



- Title of the work, author/editor, date of publication, publisher, volume and issue number (if the work is from a periodical), and edition of the material you wish to use
- Describe the material to be used, including page numbers, chapters, edition, and copyright date and include a photocopy of what you want to use
- The number of copies you will be making
- If you will be using the material in a publication that will be sold, how many sales are anticipated?
- If you are using the material for a class, what dates will it be used?
- The form of distribution of the material-will it be distributed for a class, in a newsletter, in a trade book, or a magazine article?
- Will the material be sold?

Always give appropriate credit to the source of your material, even if the material is no longer under copyright or is exempt from the need for permission under fair use.

More Information on Copyright and Seeking Permissions

General Websites for copyright information:

- [U.S. copyright office](#)
- [Copyright basics](#)

Additional Fair Use determination checklists:

- [Fair Use Checklist](#)

What is in the public domain (from Washington State University):

- [University Publishing](#)

Links for various campus constituencies:

- [The campus guide to copyright compliance](#)
- [Reproduction of copyrighted works by educators and librarians](#)

Where to start for permissions for music and other audio materials, still images (including photos), and moving pictures and computer files:

- [Asking for permission](#)
- [MPL music publishing](#)
- [How to get photo copyright permission](#)

Getting permission to use materials from the internet:

- [Permission Template](#)

Resources for Legal Downloading:

- <http://www.riaa.com/toolsforparents.php>
- <http://www.mpaa.org/contentprotection/get-movies-tv-shows>



Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement. Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or “statutory” damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For “willful” infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys’ fees. For details, see Title 17, United States Code, Sections 504, 505. Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense. For more information, please see the website of the U.S. Copyright Office at www.copyright.gov.