



Copyright and Intellectual Property Policies

Issues of copyright compliance potentially impact the work of all faculty, students, and staff at [REDACTED]. In the contemporary academic environment copyright questions may impact your work from three perspectives: as a user of copyrighted material, as a creator of new intellectual property, or as a manager of legal compliance. For this reason the institution establishes the following copyright and intellectual property policies. These go well beyond the mere recitation of applicable statutory language or referencing specific guidelines (i.e. fair use). These policies address the legal use of others' works, the ownership of our own intellectual property, and management of institutional liability.

Legal Use of Others' Works

It is the policy of the University that all employees and students strictly adhere to the laws regulating the use of copyrighted works. When necessary, you may want to examine **U. S. Code Title 17** for statutory details. In the academic setting most questions of copyright from the user's standpoint involve application of the **fair use** principle. Fair use is a somewhat flexible provision in the statute that allows for the limited use of some copyrighted work for education, research, or private study. This provision should never be construed as an absolute exception to the rules governing use of copyrighted works.

Educational use is not necessarily fair use. When questions arise with regard to fair use there are a number of established guidelines for determining the appropriate course of action. There is a special **four-factor test** of fair use established within the law. Unfortunately, the test does not always give clear guidance and is open to interpretation. For this reason government agencies, non-profit groups, and trade associations have cooperated in the development of a number of specific **guidelines** to assist in determining fair use. While these guidelines do not necessarily represent the outer limits of fair use, they do provide general parameters within which the institution can operate with minimal exposure to risk. Therefore, the University expects all employees and students to conform to these guidelines.

In addition to the provisions of fair use, there is a specific **face-to-face teaching exemption** within copyright law. It allows for legally reproduced work (e.g. articles, small portions of books, short video clips, etc.) to be used in a classroom setting or similar place devoted to instruction in the course of face-to-face teaching activities of a non-profit educational institution. The exemption applies only when such use involves no direct or indirect admission charge, is part of regular instructional activities, and is directly related to the teaching content. This special exemption is not to be viewed independent of fair use but rather as an extension of fair use. Instructors should always

apply the four-factor test in determining whether use of any work in the classroom is legal.

The adoption of the **Digital Millennium Copyright Act** amended copyright law with regard to the use of digital media. This law placed new restrictions on the copying of digital media without including any provision for fair use in the digital realm. Because of the negative effect of this law on the classroom, particularly with regard to distance education Congress has adopted the **Teach Act** in order to make some provision for legal use of digital media in the classroom setting. However, such use is not unlimited and is tightly regulated in the law. Therefore, all employees should follow the principles outlined within the four-factor test and the face-to-face exemption in order to show good faith effort in complying with these new regulations.

For the use of copyrighted works that go beyond the provisions of fair use and the face-to-face exemption **permission** must be obtained. There are numerous agencies that coordinate the granting of permission to use copyrighted works. Two services commonly used by educators are the **Copyright Clearing House** for print copies and the **American Society of Composers, Authors, and Publishers** for musical performance.

In the old print environment certain rights to lend, copy, or perform a copyrighted work were granted to the owner of a book, journal, or score. Recent changes in copyright law have substantially diminished those rights in regard to digital works. In the digital realm **licensing agreements** have become the key to access rights. As the various departments of the University have become more dependent upon the licensing of data and software the management of access rights has become an important administrative task. Therefore, the University requires all department administrators to negotiate license agreements with appropriate care, maintain files of all licenses, and establish processes that will ensure compliance.

For further information on the use of copyrighted material within classroom contact the Library Director.

Ownership of Our Own Intellectual Property

In the course of pursuing its stated institutional mission the University may provide support for the creation of imaginative and authentic intellectual property. When it does so, it shall assert ownership and/or other rights to such works in accord with the following policies.

Copyright Policies

1. The University will generally assert its copyright interest in the intellectual property of employees or students who make use of University resources, facilities, release time, and/or funding in the creation of such works. This policy will cover all types of intellectual property that are governed by copyright law.

2. The University will **not** assert copyright on intellectual property created by employees in the field of their expertise or students in the completion of their academic program unless such property is marketed for profit or is considered a work-for-hire.
3. In the event of for profit marketing of intellectual property the University will assert joint copyright with its creator unless all rights have been assigned to the creator. It will be the responsibility of the creator to inform the University in the event of such marketing so that all proceeds, royalties, and other rights may be appropriately negotiated.
4. All intellectual property that is created as part of a contractual arrangement with the University, in the performance of normal job related responsibilities, or fits one of the nine categories defining works-for-hire in copyright law shall be considered work-for-hire. The University will assert sole copyright of all such intellectual property.
5. All disputes over the assignment of rights and royalties or contracts governing work-for-hire will be resolved through regular internal due processes outlined in the Faculty and Staff Handbooks.

Patent Policies

1. The University will generally assert its patent interest in the intellectual property of employees or students who make use of University resources, facilities, release time, and/or funding in the creation of such works. This policy will cover all types of intellectual property that are governed by patent law.
2. The University will generally assign its rights to patentable intellectual property resulting from the work of employees in the field of their expertise or students in the completion of their academic program unless such property is marketed for profit.
3. In the event of for profit marketing of intellectual property the University will assert its sole patent rights except where those rights have been otherwise negotiated by the employee or student. It will be the responsibility of the employee or student to inform the University in the event of such marketing so that all proceeds, royalties, and other rights may be appropriately negotiated.
4. The University will maintain exclusive patent rights to all intellectual property that is the product of a sponsored research contract or publicly funded grant.
5. The University will share royalties with those persons directly responsible for the creation of patentable intellectual property as negotiated.

6. All disputes over the assignment of rights and royalties will be resolved through regular internal due processes outlined in the Faculty and Staff Handbooks.

All employees are encouraged to take appropriate steps to protect their personal private intellectual property. General information about securing copyright, patents, or trademarks is available from the Library Director. Specific questions relating to the implementation of these policies should be directed to the Provost.

Management of Institutional Liability

The establishment of the foregoing policies is only the beginning point of the University's effort to effectively manage its liability in the areas of copyright and intellectual property. It is important that all administrators, faculty, and staff bring their respective areas of work into compliance. Toward this end, the pertinent portions of these policies are published in faculty, staff, and student handbooks.

In addition, the Library Director has been designated as the point of contact for information regarding compliance issues. The Director maintains copies of all pertinent documents and is available for consultation.

Resources

ASCAP Customer Licensees. New York: ASCAP, 2003. <http://www.ascap.com/licensing/>

Copyright Clearance Center. Danvers, MA: Copyright Clearance Center, 2003.
<http://www.copyright.com>

Copyright Law of the United States of America. Washington, DC: Library of Congress, 2003. <http://www.copyright.gov/title17/>

Crash Course in Copyright. Austin, TX: University of Texas Office of General Counsel, 2001. <http://www.utsystem.edu/ogc/IntellectualProperty/cprtindx.htm>