



University of Northwestern Ohio

Student Copyright Policy

October 1, 2014

General Statement

There are many materials made available to students at the University of Northwestern Ohio that may be used for both educational and personal entertainment purposes. These materials include but are not limited to works of fact and fiction, textbooks, professional journals, articles, pictures, electronic databases, and audio and video productions. All these materials, in addition to those stored electronically, fall under the protection of copyright law regardless of whether or not the materials contain specific copyright statements. This protection extends to any personal items brought to campus or submitted electronically. As such, students must use due diligence in applying copyright law to determine the legality of producing any copies of these materials for educational use or for personal enjoyment. Students are ultimately responsible for ensuring that all copies of materials produced are in compliance with current copyright laws and regulations.

This policy is intended to create a framework of understanding with suggested best practices in the form of guidelines so that copyright law may be applied in practice when judging the legalities of the copying and use of library and personal materials. This framework and the guidelines contained within are structured around copyright law as it is applied to printed materials and around the TEACH Act (Technology, Education and Copyright Harmonization Act) and the DMCA (Digital Millennium Copyright Act), both of which further define copyright law as it applies to the making and storing of digital copies of materials that may in turn be transmitted electronically over the Internet. The guidelines contained within this policy do not constitute legal advice and therefore should be used as general guidance. When in doubt, consult a practicing copyright attorney for legal advice.

All students of the University bear the sole responsibility for any claim of copyright infringement. The University will take appropriate disciplinary action against any student who violates this policy. Conduct in violation of the principles set forth within this policy may also be subject to criminal or legal action instigated by copyright holders and law enforcement agencies. Please refer to the Student Handbook, the Technology Usage and Ethics Policy, the Library Copyright Policy, and <http://www.unoh.edu/policies/> for additional information.

Applicability

This policy applies to all materials housed at the University, personal items brought to campus by students, materials stored electronically in University systems, or materials stored in electronic database subscription services. Please consult with the University librarians if in doubt about allowed usage of copies of copyrighted materials.

What is Copyright and What is Protected?

Copyright is a legal right granted under the Constitution of the United States of America that protects original works expressed in some tangible medium and is a form of intellectual property. This and other related laws are contained in Title 17 of the United States Code. This right is granted to the original author or agent of both published and unpublished works. Copyright also grants protections of any monetary consideration expected by authors or agents that may be derived from the use of copyrighted works by others in the form of payments, license fees, and royalties. Copyright protection begins when an idea is put into a tangible form such as paper or a digital recording.

Copyright protection covers original works such as but not limited to novels, poetry, textbooks, magazine articles, music contained on CDs or downloaded from music providers, movies contained on DVD or streamed from video providers, TV shows viewed over broadcasts or recorded for later viewing, computer software, pictures, drawings, paintings, signs, plays and musicals, scripts, course handouts, web pages, and library electronic databases.

General Copyright Policies

Student works – Students retain copyright of their works, which includes homework assignments, research papers, class projects, presentations, and any submitted assignments, unless the work is commissioned by the University or is an assigned work task while employed as a student worker or during an internship position.

Peer-to-peer Networking – Any content that is transmitted using University owned networks by a peer-to-peer networking protocol must be filtered in order to deny the transmission of illegal copies of copyrighted material (aka piracy). Because this filtering technology is both difficult and expensive to implement, the University has made the decision to disallow any peer-to-peer networking to occur on its networks. Not allowing peer-to-peer networking activity should in no way impede student academic activities.

Digital Millennium Copyright Act (DMCA) – This law addresses the copying of electronic materials, most notably but not limited to motion pictures (movies) and music recordings, through unauthorized file sharing, and makes such unauthorized copying a criminal offense (aka piracy). This law also makes it a criminal offense to prohibit the deliberate circumvention of copy protection technological measures. Use of the University's networks and storage systems in the acts of copyright violations including those addressed in the DMCA is strictly prohibited. Any suspected copyright violations brought to the University's attention by law enforcement agencies or by copyright owners and/or their agencies must be investigated and brought to conclusion. Please review the DMCA Copyright Policy, located at <http://www.unoh.edu/policies/>, for additional information about how the University receives and processes enforcement actions for copyright violations.

Annual Disclosure of Copyright Law and University Copyright Policy – The University is required to provide an annual disclosure to its students informing them about copyright law and the consequences of any enforcement actions should they violate copyright law. This disclosure includes information about the DMCA and is provided to students via their University e-mail

account. Students may also visit the University web site's policy page, located at <http://www.unoh.edu/policies/>, for current information regarding copyright law.

Copyright Notices and Citations – All copied materials, whether in printed form or electronic, must be cited or attributed and must display the required copyright notices where required, unless used solely for personal use.

Copyright Permission – If written permission was not received from the copyright holder for the use of any copied copyrighted material, the rules of Fair Use may apply. Refer to the Rules of Fair Use guidelines below for the proper application of this rule.

Educational or Commercial Use of Copies – Copies of materials, whether in printed or electronic form, should only be made for educational use. Copies made for commercial or personal financial gain or that denies expected payments for the work to the copyright holder is a violation of copyright law.

Photocopying, Scanning, and Printing – All photocopying, printing, scanning to electronic files, copying to personal or other media, or other distribution to others of any printed or electronic materials must be done in compliance with all applicable copyright laws.

Unsupervised Copying and Printing – Students making their own copies using University photocopiers or printers are personally liable for any copyright infringements.

Charges for Copying and Printing – All student printing is charged at applicable University rates through the print management system. All photocopied copies must be paid for in advance at applicable University rates.

Copyleft – Search for content that is governed under the Creative Commons License, the General Public License (GNU), or similar copyleft licensing. There are many materials that are available and can freely be copied under these licensing schemes. The authors and copyright holders have agreed to make the content freely available for use in educational and not-for-profit settings through the use of simple citations and/or copyright notices so that they may be freely copied without consequence.

Public Domain – Materials that have never been protected by copyright or that have expired copyright are considered to be in the public domain. It should be noted that some materials may display a copyright notice which may indeed be expired. It is the responsibility of the student, faculty or staff member, or other library patron to determine the expiration of copyright before making a public domain judgment. Materials deemed to be in the public domain may be freely copied without consequence.

Guidelines

Because copyright law is complex and many times seemingly vague or overly restrictive, UNOH is providing the following guidelines and suggested best practices for applying copyright law. These are broken into three categories: 1) Printed Materials; 2) Electronic Materials; and 3) the

Rules of Fair Use. Students should make best efforts in applying categories 1 and/or 2 in all cases. However, if permission cannot be obtained from the copyright holder, it is possible that the Rules of Fair Use may apply.

1) PRINTED MATERIALS

These guidelines only apply to printed copies distributed to students or digital materials presented to students within a classroom. Therefore, these guidelines do not apply to digital copies posted online in other electronic distribution systems. Please refer to the “Electronic materials” section for guidelines on their use.

PRINTED or PHOTOCOPIED COPIES

- **PowerPoint Slides**
- **Articles**
- **Books and Textbooks**
- **Diagrams and Cartoons**
- **Charts and Graphs**

- Printed copies of PowerPoint slides, articles, and other handouts received from faculty in courses are only to be used for academic purposes and should not be copied for any other use.
- Single copies may be made for academic or research use. Copies should be restricted to a single chapter, a single article, a single short story or essay, or a single diagram or chart as prescribed under the Rules of Fair Use.
- Multiple copies may be made for classroom use by other classmates but the copies should be restricted to only one copy per student within a course. Copies should be restricted to a single chapter, a single article, a single short story or essay, or a single diagram or chart as prescribed under the Rules of Fair Use.
- Consumables such as workbooks, practice sets, and standardized tests should not be copied in whole.
- Copies should be restricted to academic or personal uses and therefore should not be shared with others who may be required by copyright law to purchase copies for their own use.

PERMISSION TO COPY

- Whenever possible, seek out written permission to use any ancillary materials. This may include permission granted through e-mail messages.
 - When requesting permission, be specific about the materials being used. Many owners may allow for portions of a work to be used but not the entire work.

2) ELECTRONIC MATERIALS

These guidelines only apply to electronic materials that will be posted to electronic media distribution systems over the Internet.

SEEK & DOCUMENT PERMISSION	<ul style="list-style-type: none"> • Whenever possible, seek out written permission to use any digital materials, direct or copied. This may include permission granted through e-mail messages. <ul style="list-style-type: none"> ○ When requesting permission, be specific about the materials being used. As with printed materials, many owners may allow for portions of a work to be used but not the entire work. In the case of DVD movies, request permission to use a specific 10-minute segment rather than the whole DVD.
DO NOT CIRCUMVENT COPYRIGHT PROTECTION	<ul style="list-style-type: none"> • Under no circumstances, even within the terms of fair use, should software copyright protection schemes be circumvented. Under copyright law (specifically DMCA), no one is allowed to circumvent such protections (regardless of ease of doing so) then subsequently use the material for classes.
CONSULT LIBRARY	<ul style="list-style-type: none"> • Check with the library (electronic reserves, subscriptions, or databases) for suitable alternative content.

3) RULES OF FAIR USE

When permission cannot be obtained for the use of printed or electronic materials, the rules of fair use may come into play. Copyright law provide that in limited circumstances the fair use of a copyrighted work for certain purposes, including teaching, scholarship and research, is not a copyright infringement. The law identifies four factors to be considered in determining whether use of a work is “fair use.” UNOH provides the following guidelines as appropriate applications of those four fair use factors. When in doubt, consult a practicing copyright attorney for legal advice.

“(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;”¹

UNOH is a not for profit institution of higher education and is therefore using all materials for the education of our students. However, no course materials should ever be used in a public setting as this constitutes a public performance.

Work that is for nonprofit educational use favors fair use.

- An instructor or student may play a commercial DVD movie in its entirety in a classroom setting to others enrolled in the course. This use serves an educational purpose. However, this same DVD movie cannot be played in front of a gathering of people when they are invited to attend for entertainment purposes.

“(2) the nature of the copyrighted work;”¹

The nature of the copyrighted work is an important determining factor in applying the rules of fair use. If a work is published and is factual in nature, the rules of fair use may be applied in determining whether or not the work may be used within an educational setting. If a work is unpublished or is fictional or imaginative in nature, the rules of fair use do not favor the use of the work unless permission is obtained from the copyright owner or the legal representatives of the author’s estate.

Work that is factual favors fair use.

- **A student may copy and distribute to other students in their class an article that contains factual research results contained within a professional journal from a publisher that no longer exists.**
- **A student may not copy and distribute to other students in their class the entirety of an out of print fictional novel. However, portions of the novel may still be used should the other three rules of fair use apply.**

“(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole;”¹

As a general guideline, UNOH suggests that “amount” should be limited to 10% or less of any one work and that “substantiality” should be limited to material that is necessary to illustrate an educational point.

Using a small portion of the work favors fair use.

- **For a 90 minute DVD movie, no more than a 9-minute segment may be copied and posted electronically for a course assignment. In regards to substantiality, only use a 5-minute segment if that is all that is needed illustrate a point.**
- **For a periodic professional journal with 12 published articles, no more than 1 article may be copied and posted electronically for a course assignment unless the pages of the article total more than 10% of all the pages of the journal. In regards to substantiality, use only the portion of the article, an illustration or table for example, rather than the whole article.**

“and (4) the effect of the use upon the potential market for or value of the copyrighted work.”¹

UNOH does not promote or condone the use of copied course materials that are given to students for use in the classroom or online that circumvents the purchase or royalty process.

The following factors favor fair use:

The author or publisher is not denied expected payments for the work

One or a few copies are made for student use

The work will only be used one time in the classroom

Will only be used by students in the classroom

- **A student is taking a course where students are required to purchase four novels. In this situation, a student is not allowed to make copies of the novels, either on paper or electronically, and then distribute those copies to another student.**
- **A student does not purchase a textbook required for a course. Another student is not allowed to make a complete copy of their textbook then provide that copy to the first student.**
- **A student prepares a compare and contrast research paper to illustrate a point using three fictional novels. The student may make copies of specific pages being referenced within the research paper to be attached to the paper.**

***Application of the Rules of Fair Use**

The following checklist may be used to determine if a copyrighted work may be used under the rules of fair use without having to obtain permission of the copyright owner.

¹ Copyright Law of the United States | U.S. Copyright Office. (2014, August 1). Retrieved August 1, 2014, from <http://www.copyright.gov/title17/>

Fair Use Checklist

Course Code and Title: _____

Venue: Face-to-Face Online in LMS Online outside of LMS Other: _____

Instructional Material Title: _____

Portion Used (e.g. pages, minutes): _____

Prepared by: _____ Date: _____

Purpose

Favoring Fair Use

- Teaching (including multiple copies for classroom use)
- Research / scholarship
- Criticism / parody
- Comment / news reporting
- Transformative or productive use (changes the work for new utility)
- Restricted access (to students or other appropriate group)

Opposing Fair Use

- Commercial activity
- Profiting from the use
- Entertainment
- Bad-faith behavior
- Denying credit to original author

Use this form only if you did due diligence to obtain copyright permission first.

1. Fill out form.
2. Majority favoring? Material may be used.
3. Majority opposing? Do not use material.
4. A tie? Reevaluate material used or do not use the material.
5. If changes are made to usage of materials, including a venue change, use a new fair use checklist.
6. Keep this copy on file for future reference.

Nature

Favoring Fair Use

- Published work
- Factual or nonfiction based
- Important to favored education objectives

Opposing Fair Use

- Unpublished work
- Highly creative work (art, music, novels, films, plays)
- Fiction

Amount

Favoring Fair Use

- Small Quantity (10% or less)
- Portion used is not central or significant to entire work
- Amount is appropriate for favored purpose

Opposing Fair use

- Large portion or whole work used
- Portion used is central to or "heart of the work"

Effect

Favoring Fair Use

- User owns lawfully purchased or acquired copy of original work
- One or few copies made
- No significant effect on the market or potential market for copyrighted work
- No similar product marketed by the copyright holder
- Lack of licensing mechanism

Opposing Fair Use

- Could replace sale of copyrighted work
- Significantly impairs market or potential market for copyrighted work or derivative
- Reasonably available licensing mechanism for use of the copyrighted work
- Affordable permission available for using work
- Numerous copies made
- You made it accessible on the Web or in other public forum
- Repeated or long-term use

Overall Favoring Fair Use

Overall Opposing Fair Use



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