

Copyright Policy¹ **Saint Louis Christian College²**

Saint Louis Christian College affirms the obligation of its faculty, staff, and students to comply with all Federal laws (Title 17, United States Code) regarding copyright. This policy grows out of the time-honored academic tradition that the creators of works own certain exclusive rights regarding the products of their scholarly, pedagogical, or creative activities. This principle underlies Saint Louis Christian College's commitment to encourage respect for, and 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 College recognizes its obligation to inform members of the campus community about this law, and to promote, within the various College constituencies, the exercise of the rights and responsibilities granted under this law.

Saint Louis Christian College assumes that any questions regarding copyright, as they apply to materials for instructional or other College use, will be resolved prior to the use of those materials on any College-owned equipment or in any College-sanctioned activities. All members of the College community are responsible for complying with College 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 SLCC 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 College Affordability and Opportunity Act (CAOA) of 2008

The College 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.

¹ Adapted from the Copyright Statement of Hood College, Frederick, MD, by permission.

² Approved by faculty 10/14/13.

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 unauthorized download sites) may subject them to civil or criminal liability.
- Summarizes the penalties for violation of Federal copyright laws.
- Describes the institution's policies regarding unauthorized download sites, 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.

Expanded Statement on Peer-to Peer File Sharing-Penalties (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 Saint Louis Christian College community, including students, faculty, and staff, who are found to have, using the College's information technology system, downloaded or uploaded works protected by copyright may be subject to disciplinary action, 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 unauthorized download sites 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.

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.

Broader Copyright Implications for SLCC, and SLCC Institutional Compliance

While the provisions of the College 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 Saint Louis Christian College constituencies to respect copyright law and to set an example for members of the SLCC community in their use of the intellectual works of others, regardless of the format of the materials or the technologies used to access them.

The CAO and the DMCA do not offer the only imperatives to copyright compliance at SLCC. We must be mindful that U.S. copyright law is as old as our Constitution. As American citizens, we are required to respect copyright law and to adhere to its provisions. It is incumbent upon us, as creators and users of intellectual property, to understand the law and what we need to do to comply with it. Further, as members of an institution whose mission concerns preparation for Christian Ministry, the Saint Louis Christian College community should recognize and embrace its responsibility to follow the law, model it for others, and pursue intellectual integrity.

The Saint Louis Christian College community is informed of its responsibilities under CAO and DMCA by means of the annual distribution of the Saint Louis Christian College Technology Use policy. All College personnel are required to sign the policy statement annually.

What is Protected by Copyright and What is Not

- Public domain—not protected under the law:

For purposes of understanding SLCC’s copyright policy, works or intellectual property in the public domain are simply those whose use is not restricted by copyright. Works created before copyright laws came into use are in the public domain, although new editions or creative adaptations of those works may be copyrighted. Materials produced by the United States Government (and some other governments, as well) automatically are in the public domain, although contractor-produced government materials may be copyrighted. Collections of data or facts, such as phone books, cannot be copyrighted, although a creative presentation of those facts or data may be. Of materials covered under copyright law in the U.S., only those produced before 1923 have generally come into the public domain by virtue of the expiration of their copyright terms.

Materials that are not under copyright may be used without restriction as to amounts of the work cited or reproduced in new materials.

Do note that the term "publicly available," referring to materials such as those that are accessible on the Internet, emphatically does not mean "public domain." In fact, most materials on the Internet are under copyright.

Since changes to U.S. copyright law became effective on January 1, 1978, the term of copyright now extends from the time a work is produced to the end of the author's life plus an additional 70 years. This is far longer than the term (even when term renewals were accounted for) prescribed by the previous law. The new law covers both published and unpublished works, unlike the previous law that covered only works that had been published. Now all unpublished works, regardless of when they were produced, fall under the amended law. As noted above, materials produced before 1923 generally now are in the public domain. Those produced between 1923 and 1977 may or may not be under copyright, depending upon a number of factors, although, more often than not, materials produced during this time period are, at least at present, protected by copyright.

If a student or faculty member wishes to use materials that are under copyright in her/his own work, whether that be for research or in the classroom, or to copy and distribute such materials in any way, in order to be in compliance with copyright law, it may be necessary for him/her to obtain permission from the publisher (or other holder of the copyright) to use those materials.

(The Few Times) When It Is Not Necessary to Obtain Permission, Or: Fair Use Is Not as Broad as You May Think

There is a mistaken notion that any and all materials that are used for educational purposes fall under the rubric of "fair use," and therefore getting permission to use copyrighted materials for educational purposes is not necessary.

The first thing that one needs to know about fair use is that it is not an affirmative right, but rather a defense against claims of infringement, and it very definitely does not protect against such claims. It is up to the person who is accused of infringement to prove to the rights holder—and the court—that because fair use applies in this case, the use does not constitute infringement.

Fair use, when applied as it was intended, does not excuse the use of large portions of works (or works in their entirety, save—as a rule of thumb—poems of fewer than 250 words or articles of fewer than 2500 words) or repeated uses of the same work (or portion thereof) over time. Fair use would be properly applied if a small portion of a work were being used (e.g., 10% of a work or 1,000 words—whichever is less; one picture, graph or cartoon per book or periodical article; a single article from a periodical) within a few days or weeks of the decision to use that material and if only one copy per student is made. And one final item: no more than nine instances of such copying per course per semester are permitted under the fair use guidelines.

What many people are unaware of is that the application of 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. When you have had time to anticipate using it in subsequent courses, you have had, presumably, enough time to seek permission to use it.

If you are unsure of whether a use of copyrighted materials may constitute a fair use, consider the factors listed in the chart below. **Factors one through four are enumerated in the current copyright law** as the critical factors to consider in determining fair use. If the first four factors fall on the side of fair use (and ALL must align there), there is probably no need to seek permission to use the material. The spontaneity factor (number 5) is only available for any given work on the first occasion of its use. Factor 6 (Honesty of Use), needs to be considered in all cases of the use of another's work, regardless whether fair use applies or not: the creator of the work should ALWAYS be acknowledged, even if you have permission to use the work or it is in the public domain.

Factors to consider	May be fair use IF:	Probably need permission IF:
1) Purpose and character of the work	The purpose is: Noncommercial, educational, scholarly, or newsworthy	The purpose is: Commercial or for entertainment
2) Nature of the work	The nature is: Factual or based on public documents	The nature is: Creative or artistic
3) Amount used compared to length of work	The portion copied is: A small percentage of the entire work	The portion copied is: A large percentage (or all) of the work
4) Effect of use on an existing or potential market	The work will be used: On one occasion by a single person or a small audience	The work will be used: Multiple times or by a large public audience
5) Premeditation	The use of the work is: Spontaneous	The use of the work is: Planned, systematic, or ongoing
6) Honesty of use—this one ALWAYS applies	The material is used in good faith AND credit is given to the copyright owner	The intent of usage is dishonest and/or credit is not given to the copyright owner

Readers may also wish to consult the following web page for additional information concerning fair use: http://www.copyright.com/Services/copyrighoncampus/basics/fairuse_list.html

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.

Instances of copying that clearly require permission include the following: course packs, copies of textbooks, journal articles, or other materials that will be used as the sole materials for any class in which a textbook is available and is traditionally used; copies that are sold or used in a commercial venture that has no educational, research, or commentary (i.e., "news") purpose; copies that are distributed or posted online and that serve as a substitute for the original material from which the copies were made.

Obtain Permission:

- 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. When in doubt, seek permission.

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. Simply put, one 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 permission is needed. <http://www.librarycopyright.net/digitalslider/>
- 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, but do be aware that the process can, on rare occasions, take weeks or months. Also be aware that the CCC does not work with all publishers or rights holders, so there may be times when you will have to do the legwork yourself.
- 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.
- Once again, be prepared for this to take some time. 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. But note that attribution is not a substitute for permission.

A brief video at the following URL presents the salient information in a particularly accessible presentation:

http://www.copyright.com/content/cc3/en/toolbar/education/resources/copyright_on_campus.html