

Copyright Protection

Stony Brook faculty need to be aware of copyright law and fair use doctrine when utilizing the work of others in your teaching curriculum. This document provides a synopsis of your rights and responsibilities as established by the Copyright Act of 1976. A number of links below are provided for additional reference.

Copyright protection vests automatically in original works of authorship that are "fixed in any tangible medium of expression". 17 USC § 102(a). Writings, images, art, movies, music, computer programs and other works are all protected by copyright law.

The protection applies even if the work lacks a copyright notice and is not registered with the U.S. Copyright Office. Although works in the 'public domain' (such as works of the U.S. government and factual data) do not enjoy copyright protection, copyrights today usually last through the life of the author, plus seventy years.

The State University of New York acknowledges the right of individual faculty members to copyright and publish works that they produce. By the same token, the faculty must acknowledge the value of copyrighted works produced by others.

Whenever you use another's work in your teaching curriculum, you are using copyright-protected materials. Among the rights of copyright owners is the right to make copies and publicly display that work. A group of students – assembled or dispersed – would be considered the "public" under the law. As a result, educators may be violating third party intellectual property rights whenever materials are copied as handouts, uploaded to websites, displayed as slides or with other images, or when music, videos, and other works are performed.

Be aware that copyright owners have the right to sue individual infringers. Although they may also sue the University, that will not insulate a person who violates another's intellectual property rights from the full force of a lawsuit. The penalties are significant – the court can award up to \$150,000 for each separate act of willful infringement. Moreover, ignorance of the law is no excuse. Under the Copyright Act, the infringing party will still be liable for actual or statutory damages.

In the context of traditional teaching, the Copyright Act of 1976 includes a provision that allows instructors to reproduce copyrighted materials in the face-to-face classroom setting. 17 USC § 107, known as the “fair use” doctrine, permits faculty to use another’s work for purposes such as criticism, comment, illustration, scholarship and research, under circumstances that do not impermissibly infringe on the copyright owner’s fundamental rights to reproduce, distribute, perform or display the work.

Four factors must be evaluated:

1. *the purpose and character of the use: is it of a commercial nature or for educational purposes.*
2. *the nature of the copyrighted work.*
3. *the amount and substantiality of the portion used (NY courts have found use of as little as five percent of another’s work to be problematic).*
4. *the effect of the use on the potential market for or value of the copyrighted work.*

The University of Texas has developed some useful guidelines for evaluating whether or not a given use is permissible under the fair use doctrine, at <http://www.utsystem.edu/ogc/intellectualproperty/copypol2.htm#test>

The rules for distance education, however, are significantly different. The fair use requirements that must be met to take advantage of the doctrine are much more rigorous when materials are uploaded to websites, available for transmission anywhere in the world, and can be easily downloaded, altered, or further transmitted by students and other users. Every such action – particularly the possibility of uncontrolled dissemination – threatens the legally protected property interests of copyright owners.

Additional guidance is available at these useful sites:

The Visual Resources Association: <http://www.vraweb.org/resources.html>

The Music Library Association: <http://www.lib.jmu.edu/org/mla/guidelines>

The Copyright Management Center, Purdue University: <http://www.copyright.iupui.edu>

The U.S. Copyright Office: <http://www.copyright.gov> and <http://www.copyright.gov/circs>

North Carolina State University: <http://www.lib.ncsu.edu/scc/copyright/copyright4.html>

Cornell University: <http://www.copyright.cornell.edu/index.htm>

Manhattanville College: http://www.mville.edu/Administration/staff/Jeff_Rosedale/index.htm