

Copyright Use Policy

Policy:

Introduction

U.S. copyright law stems from the Constitutional clause giving Congress the power to “promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” In short, to encourage creativity and expression, copyright law protects the rights of creators of literary, artistic, musical or other creative works to exclusively use, promote, control or sell his/her creation for a specified period of time. The College affirms its commitment to respect copyright law and the protection of intellectual property, including the recognition that the law contains specific exceptions which provide for the permissible use of materials in educational settings without the consent of the copyright holder.

The goal of this policy is to provide relevant, common sense guidelines to help faculty, students, and staff exercise their rights to use information in the furtherance of their education and research, while remaining within the legal parameters of existing copyright law. Dickinson supports the appropriate use of legal exceptions to copyright, with the expectation that each faculty member, staff member and student will respect copyright and act in good faith to comply with current copyright law and the College Copyright Use Policy. The College urges everyone at Dickinson to recognize that copyright law can be complicated, and to seek guidance when appropriate. This policy is not a substitute for advice on particular cases or situations and users are encouraged to seek help when this policy does not provide the answer needed.

Works protected by U.S. copyright law

Users of works authored, created, or performed by others are responsible for determining if those works are currently protected by copyright law and must limit their use of such works to uses permitted under copyright law. Copyright protection is afforded to both published and unpublished works. While one cannot copyright an idea, the creative expression of an idea may be copyrighted. A copyright symbol or registration is NOT required for a work to be protected by copyright law. Determining the duration of copyright protection is complicated. The period of protection varies greatly depending on the nature of the work protected, when a work was first copyrighted and the actions of a copyright holder in renewing or maintaining copyright protection as permitted by law. It is safest to assume a work is subject to copyright protection until you are able to verify that it is not. Works that are no longer protected by copyright are considered to be in the “public domain” with the copyright holder’s rights having been extinguished by operation of law in favor of the benefits to society created by access to the work on a broad basis. Most, but not all, U.S. federal government documents are in the “public domain” and not subject to copyright. However, non-federal government documents, such as state and local government documents, may be copyrighted.

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“Fair Use”

In keeping with the original spirit of the purpose of copyright law (to promote the progress of science and the useful arts), the law contains specific exceptions to requiring the consent of the copyright holder before a work may be used in the educational context. This is called the “fair use” exception to copyrights (17 U.S.C. §107). However, it is a myth that any use in an educational setting or by an educator or student is automatically “fair use”. There are four factors which must each be evaluated in determining if the “fair use” exception applies.

- (1) **The purpose and character of the use** – Use of a copyrighted work or a portion thereof in a non-profit educational setting favors fair use, but the three other factors set forth below must also be weighed. A “transformative” use strongly favors fair use. A use may be transformative if it makes use of a prior work in a totally new and highly creative way, for example a parody of a song.
- (2) **The nature of the copyrighted work** – Fair use is more likely when using works that are factual/non-fiction, rather than creative/fictional works.
- (3) **The amount and substantiality of the portion used relative to the work as a whole** – Note that there is no set proportion, number of words, or number of pages that automatically constitute fair use. Use of the “heart of the work” may constitute a violation even if it is a relatively small proportion of the entire work.
- (4) **The effect of the use on the potential market for or value of the work**

For movies and music, there are additional criteria that must be met in order for the fair use standard in the educational environment to apply. “Fair use” is a complicated doctrine and questions should be directed to staff at the Waidner-Spahr Library.

Other Copyright Exceptions

Other exceptions relevant to higher education exist in copyright law to provide for library copying and lending; public displays in libraries and galleries; computer software backup; photographing architectural works; and making specially formatted copies for people with disabilities. Users should contact the staff at the Waidner-Spahr Library for assistance.

Permission to Use Copyrighted Material

It is always acceptable to use copyrighted material if the permission of the copyright holder (who may or may not be the author or original publisher) has been secured. The grant by the copyright holder of some of the rights in the copyrighted work (but less than all of the rights) for a period of time is known as a license. A license should be secured in writing. If you ask for permission and do not get any response, you may NOT assume that your use is acceptable. In fact, without written permission to use a copyrighted work that is not otherwise subject to an exception for use, you must assume that you do not have permission to use the work.

In addition to securing permission to use copyrighted materials directly from the copyright holder, online information resources and software are often acquired under a

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license granted by the copyright holder to a third party to use or permit the further use of the copyrighted work. Examples include licensed Library databases and LIS distributed software.

College Response to Copyright Violations

Violations can occur by illegal reproduction, distribution, performance, or public display of copyrighted works or portions of copyrighted works, or by the production of derivative works which are not deemed sufficiently transformative to constitute a new, original work. Upon becoming aware of a copyright violation, the College will take immediate and appropriate action to stop the violation.

In addition to being a violation of federal and state law, violation of copyright law is also a violation of College policy, and may result in internal disciplinary action. Disciplinary actions involving Faculty will be initiated by the Provost and Dean of the College. Disciplinary actions involving College administrators or staff will be referred to employee's division head who will work together with Human Resource Services to review an alleged violation. Disciplinary actions involving students will be referred to the Dean of Students or his/her designee. Members of the College community are individually responsible for all prohibited use of copyrighted material.

Violation of copyright may also result in legal action against the individual violator, as specified in copyright law.

Plagiarism vs. Copyright

Copyright violations are distinguishable from plagiarism. One can commit plagiarism by failing to cite a work, even if that work is not protected by copyright. Citing a work properly avoids plagiarism, but depending on how the original work is used, a copyright violation may still occur. Plagiarism and copyright violations are both violations of the Dickinson College Community Standards.

For Additional Guidance

General inquiries about copyright, coursepacks, and obtaining permissions may be directed to circ@dickinson.edu, and staff at the Waidner-Spahr Library will assist. Complex questions about copyright may be referred by Library staff to the Office of General Counsel.

This policy is subject to change to maintain compliance with current U.S. copyright law.

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Related Information

Associated website with supplemental information: <http://libguides.dickinson.edu/copyright>

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Also Found In: <http://libguides.dickinson.edu/content.php?pid=478513&sid=3919974>