

October 2011

5.501 Copyrights

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ANTIOCH UNIVERSITY

Type of Policy <input checked="" type="checkbox"/> University <input type="checkbox"/> Campus <input type="checkbox"/> Department/Unit <input type="checkbox"/> Interim		Copyrights Policy 5.501	
Academic Policies		Effective date: November 1, 2016	
Policy History:	Approved by:	Resolution #	Date
Approved	Chancellor	N/A	September 6, 2011
Approved	Chancellor	N/A	October 27, 2016
Revised	Chancellor	N/A	April 13, 2018
Responsible Office	Responsible Administrator:	Contact information	Applies to:
Office of Vice Chancellor of Academic Affairs	Vice Chancellor of Academic Affairs	937-769-1890	All Faculty, Students and Staff

I. Introduction and Purpose

Antioch University is committed to supporting the teaching, research, and public service activities of its faculty, students and staff. The university encourages all members of the Antioch community to respect the copyrights of others and to share appropriately their works of authorship with their colleagues and the public. The Copyright Policy is intended to foster excellence and innovation in teaching, research, and service by identifying and protecting the rights of copyright holders and encouraging the fair use of copyrighted works. It is the policy of Antioch University that all faculty, students, and staff must comply with federal copyright law and regulations.

This Copyright Policy is intended to alert faculty, students, and staff to the rights of copyright holders and the responsibilities of complying with federal copyright law. This policy is further intended to direct members of the university community to review current and accurate resources on copyright law and guidelines. Copyright law develops more rapidly than policy and resources can be updated. Therefore, faculty, students and staff are expected to avail themselves of the resources provided and to seek consultation and advice from their Librarians and / or the Office of University Counsel when needed.

II. Definitions

The following terms have the meaning and requirements set forth below:

Copyright is a form of protection provided by the laws of the United States for "original works of authorship" including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. 17 U.S.C. §101 et seq. While "copyright" literally means the right to copy, it includes an exclusive bundle of rights granted to the author of a creative work—including rights to ownership, reproduction or copying, preparation of derivative works, distribution, public display, and public performance. Any one of these rights may be sold or licensed separately. However, copyright protection does not extend to an idea, procedure, process, system, title, principle, or discovery. Similarly, names, titles, short phrases, slogans, familiar symbols, variations of typographic ornamentation, lettering, coloring, and listings of contents or ingredients are not subject to copyright.

Copyright notice consists of three elements: the "c" in a circle (©), the year of first publication, and the name of the owner of copyright. A copyright notice is not required to secure copyright protection for works, but it does provide some legal benefits.

Creative Commons licenses offer a variety of ways for copyright holders to grant certain usage permissions for their creative works while retaining copyright. Works published under a Creative Commons license can, depending on the terms of the particular license, be shared and used without seeking further permission or having to fall under other exemptions provided for in the copyright law.

The Digital Millennium Copyright Act (DMCA) is a multifaceted amendment to federal copyright law in 1998 that implements international treaties regarding copyright, criminalizes the production of technology used to circumvent copyright, and creates limitations on the liability of online service providers (OSPs), such as colleges and universities, for copyright infringement when engaging in certain types of activities. 17 U.S.C. §101.

Exemptions or limitations are statutory limitations on a copyright owner's exclusive rights regarding a work of authorship. These limitations include fair use as well as library and educational uses when certain criteria are met. 17 U.S.C. §§107, 108, 109, and 110 provide for and define the extent of these limitations.

Fair use of copyrighted work allows the limited use of copyrighted material without permission from the copyright holder for purposes such as research and scholarship, teaching, and criticism. 17 U.S.C. §107. There are four factors that must be considered when determining whether an intended use of another's work is a fair use:

1. The purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes;

2. The nature of the copyrighted work, such as whether the work is fiction or non-fiction, published or unpublished;
3. The amount of the work used in relation to the copyrighted work as a whole, such as using a poem in its entirety, or using one chapter from a long book;
4. The effect of the use upon the potential market for the copyrighted work.

As there are no hard and fast rules about when a use is considered a fair use, each anticipated use must be analyzed on a case by case basis using these four factors.

Infringement of copyright is an unauthorized use of a copyrighted work in violation of the rights granted to the author of the work.

Peer to peer file sharing occurs on a type of network in which computers communicate directly with each other, rather than through a central server. Often abbreviated P2P, peer to peer file sharing has come to describe applications in which users can use the internet to exchange files with each other directly or through a mediating server. The use of peer-to-peer programs for downloading files, including but not limited to music and movies, may put users in violation of federal law as well as the Antioch University Policy on Acceptable Use of Electronic Resources. For more information, see the Policy on Acceptable Use of Electronic Resources.

A work of authorship is in the public domain if it is no longer under copyright protection or if it fails to meet the requirements for copyright protection. Works in the public domain may be used freely without the permission of the former copyright owner. Just because a work appears in a public forum, such as a website, does not mean that it is in the public domain and can be freely used. Generally speaking, works of authorship come into the public domain after the life of the author plus seventy years.

Copyright protection arises automatically the moment an original work is fixed in a **tangible medium of expression**. At the moment text is typed on a keyboard or images are written on a whiteboard, or a song or dance is performed, that work is fixed in a tangible medium of expression. Every author automatically has copyright protection in creative work without having to take any further action.

The TEACH Act is the Technology, Education, and Copyright Harmonization Act, a 2002 amendment to the copyright law which provides certain requirements for the use of copyrighted works in distance education. The TEACH Act provides the requirements by which accredited, nonprofit educational institutions may use copyright protected materials in distance education-including on websites and by other digital means--without permission from the copyright owner and without payment of royalties. 17 U.S.C. §§110, 112.

A work of authorship is any literary work, musical work, dramatic work, pantomime or choreographic work, graphical work, motion picture, sound recording, architectural work, computer software, and any other medium of expression now known or later developed. Given this very broad definition and the fact that copyright attaches as soon as the work is fixed in a tangible medium of expression, potential users should assume that a work is protected by copyright unless there is proof otherwise.

III. Use of the Work of Others

Faculty, students, and staff may copy works of others when allowed by the copyright law, fair use guidelines, contract, or other permission. Because copyright protections attach at the moment the work is fixed in a tangible medium of expression, and last for many years, those who wish to use the work should assume that the work carries full copyright protection unless otherwise indicated.

Antioch University facilitates compliance with copyright law and, where appropriate, the exercise in good faith of full fair use rights by faculty, staff, and students by informing and educating students, faculty, and staff about copyright law, including the limited exclusive rights of copyright holders as set forth in 17 U.S.C. § 106, the application of the four fair use factors in 17 U.S.C. § 107, and other copyright exceptions. Antioch University develops and makes available tools and resources for faculty and staff to assist in determining copyright status and ownership and determining whether use of a work in a specific situation would be a fair use and, therefore, not an infringement under copyright law.

IV. Compliance

Antioch University prohibits unauthorized duplication in any form. Those who disregard this Copyright Policy do so at their own risk and assume all liability for their actions.

Faculty, staff and students who violate the Antioch University Copyright Policy place themselves at risk individually for liability in the event of a claim of copyright infringement. In some cases, the university may refuse to defend an employee named in a copyright infringement action and may take corrective action as well. When Antioch University computer resources and networks have been used to illegally download or share files, the university may take corrective action, including but not limited to blocking an individual's access to the university network.

IV. Resources

In the interest of education and statutory compliance, Antioch University librarians shall provide links to information about copyright law for faculty, students, and staff. Librarians cannot provide legal advice.

Policy Cross Reference

Acceptable Use of Electronic Resources Policy	Policy # 8.101
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