

## **Dominican University Copyright Policy**

Every member of the Dominican University community is responsible for his/her use of material in a course and to ensure it is in compliance with federal copyright law. University offices will not knowingly assist any faculty, staff, or student in creating material that can be reasonably anticipated to be in violation of copyright and outside the fair use guidelines outlined below.

The educational process involves research and creation of works, and Dominican University students, faculty, and staff are active members of this process. Dominican University faculty, staff, students, and administrators must also recognize, and abide by the U.S. Copyright law while teaching and researching. Any Dominican University affiliate that does not comply with the fair use standards of the U.S. Copyright law puts the University at risk and assumes liability for their actions. It is important that everyone who uses library materials, creates works, teaches, and places items on reserve or in the learning management system understands the U.S. Copyright law and fair use.

This overview is for reference only and is subject to any future changes in copyright law. See the resources provided at the end of this Policy if you are uncertain about whether using or copying material is permissible under the law, whether such use complies with the University's procedures, or when and how to obtain proper authorization to use copyrighted material.

**Definition of copyright:** The U.S. Copyright Office defines copyright as: 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." "Copyright" literally means the right to copy but has come to mean that body of exclusive rights granted by law to copyright owners for protection of their work. Copyright protection does not extend to any idea, procedure, process, system, title, principle, or discovery, though these may be protected by a patent. Similarly, names, titles, short phrases, slogans, familiar symbols, mere variations of typographic ornamentation, lettering, coloring, and listings of contents or ingredients are not subject to copyright, though they may be protected by a trademark. For more information please consult: <http://copyright.gov/title17/circ92.pdf>

**Copyright symbol:** ©

### **Exclusive Rights of the Copyright Holder**

According to the U.S. Copyright Office the following are the exclusive rights of the copyright holder (section 106, title 17, U.S. Code):

1. To reproduce the work;
2. To prepare derivative works;
3. To distribute copies of the work to the public by sale, rental, lease, or lending;
4. In the case of literary, musical, dramatic, and choreographic works; pantomimes; motion pictures; and other audiovisual works, to perform the work publicly;
5. In the case of literary, musical, dramatic, and choreographic works; pantomimes; and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

### **Copyright Infringement**

Copyright infringement is the act of exercising, without permission or legal authority, one or more exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or “statutory” damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For “willful” infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys’ fees. For details, see Title 17, United States Code, Sections 504-505.

Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

For more information, please see the website of the U.S. Copyright Office at [www.copyright.gov](http://www.copyright.gov).

In addition to potential civil and criminal penalties, unauthorized distribution of copyrighted material, including (but not limited to) unauthorized peer-to-peer file sharing, constitutes a violation of University policy, and may result in disciplinary action by the University, up to and including termination/dismissal for employees and dismissal/expulsion for students.

For further information on university policies see the following:

- Rebecca Crown Library website:  
<http://www.dom.edu/library/usingthelibrary/policies>
- Consumer Information Page:  
[http://www.dom.edu/about/consumer\\_information](http://www.dom.edu/about/consumer_information)
- Faculty and Staff Handbooks:  
<https://duconnect.dom.edu/sites/hr/Pages/Handbooks.aspx>
- The Student Handbook, page 46:  
[http://www.dom.edu/about/consumer\\_information](http://www.dom.edu/about/consumer_information)

## Fair Use

The Fair Use Doctrine exemption is meant to allow the use of copyrighted works explicitly for **educational purposes** such as criticism, comment, scholarship, research, and teaching.

Faculty members may find the Fair Use Evaluator tool, developed by the Office of Information Technology Policy of the American Library Association, helpful when deciding whether or not a proposed use of copyrighted material is fair use. A link to the Fair Use Evaluator tool is provided in the listing of resources below.

While this is not an official instrument, it is our recommendation that you retain a copy of the PDF that is generated by the Fair Use Evaluator tool. This will help demonstrate that you made a good faith effort to determine that an item used in class was covered by fair use in the event you or the University are contacted by the copyright owner(s).

Section 107 of the copyright law has four factors that must be considered when determining whether an educational use is fair use of a copyrighted work. The four factors are:

1. The **purpose and character of the use**, including whether such use is of commercial nature or is for nonprofit educational purposes. Most uses in the University environment will be educational, which weighs in favor of fair use.
2. The **nature** of the copyrighted works. The use of works that are factual in nature (scholarly, technical, scientific, etc.) as opposed to works involving more creative expression (plays, poems, paintings, etc.) is more likely to be fair use. Some works that are designed and marketed for educational use (standardized tests, workbooks, etc.) can never be lawfully used without permission of the copyright holder.
3. The **amount and substantiality** of the portion used in relation to the copyrighted work as a whole. The larger the amount of a work that one uses, the less likely that the use will be considered fair use. Copying the entirety of a copyrighted work generally precludes the application of the fair use doctrine.

4. The **effect of the use upon the potential market for**, or value of, the copyrighted work. If the use would negatively impact the market for or value of the work, this factor will weigh against fair use.

In addition to fair use, Section 110(1) of the copyright law provides that faculty members and students may perform or display a copyrighted work in the course of face-to-face teaching activities provided that the performance or display is given by means of a lawfully made copy.

### Fair Use Guidelines

Below are commonly-accepted guidelines for *lawfully* acquired copyrighted works that can be used according to Fair Use as published by the [Conference on Fair Use](#).

Media	Amount Suggested to meet Fair Use
<b>Video</b>	Up to 10% or 3 minutes, whichever is less
<b>Text</b>	Up to 10% or 1000 words, whichever is less; 1 chapter out of 10 chapter book
<b>Music/Lyrics/Music Video</b>	Up to 10%, but no more than 30 seconds
<b>Illustrations/Photographs/Images</b>	No more than 5 images from a single artist; 10% of a published collective works, but no more than 15 works
<b>Data Sets (databases)</b>	Up to 10% or 2500 fields, whichever is less

### Classroom Use Exception

Additionally, copyrighted work may be performed or displayed in the classroom as part of face-to-face teaching activities if the work has been lawfully obtained. This allows, for example, a class to view a full movie, act out a play, or listen to a musical composition in class. This exception applies only to in-person classroom teaching activities.

### Public Domain

The public domain includes works that are not protected by copyright and are available for use by the public. For example, works that are created by the United States government are in the public domain. Additionally, works enter the public domain after the expiration of their copyright. As such, works published prior to 1923 are in the public domain, and works published before 1964 are in the public domain if the copyright holder did not renew the copyright.

A good tool to determine whether a work is in the public domain was created by the Office of Information Technology Policy of the American Library Association. It is linked in the listing of resources below.

## Photocopies or Scanned Images Made with Campus Copiers

There is a notice of copyright law on the photocopiers on campus. Please take time to read the notice and the copyright section on fair use before making photocopies of copyrighted material:

***NOTICE: The copyright law of the United States (title 17 U.S. Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement. The University reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.***

## Placing Articles, Digital Works, Etc. on the Learning Management System

Faculty members wishing to place materials on the learning management system (LMS) must follow copyright law.

The following items may be placed on the LMS:

- Content and links using tools provided within the LMS (such as the YouTube or TedED apps, etc.)
- *Links* to material in licensed databases available through the library website. (This is preferred over simply downloading the PDF itself and making it available in the LMS. In many cases, database licenses do NOT permit making copies of a PDF available other than for personal use. Most databases provide a "permanent link" as part of an article record that can be copied/pasted into the LMS. Consult a librarian for assistance.)
- Material that falls within the fair use guidelines
- Material that is in the public domain
- The faculty member's own material where s/he **owns** the copyright.

## TEACH Act

You must follow the TEACH Act guidelines when placing video, film, and music clips on a learning management system. The TEACH Act is meant for distance education or online and hybrid courses. The TEACH Act allows for the use of "reasonable and limited" portions of films and videos as well as entire non-dramatic literary and musical works and still images, provided that:

- The transmission of the digital works is part of an instructional activity at the direction or under the supervision of the faculty member and directly related and of material assistance to the lesson content;
- The transmission is technologically limited to only those students that are enrolled in the class and the University has in place safeguards preventing students from making digital copies or retaining copies beyond the duration of the coursework (streaming video is recommended); and
- Notice is provided that materials may be protected by copyright.

Additional information about the TEACH Act is available in the listing of resources below.

### **Student Responsibilities and Rights**

Students must follow the copyright guidelines outlined throughout this policy when doing research, publishing, or presenting material in a classroom or public setting. You should also note the following:

- **Cite** where you obtained your material. Even for *PowerPoint* presentations (and especially for *Prezi* presentations on the web), it is important to indicate where you obtained your material. Just because it's "on the web" does not mean it is free from copyright. Fair use—while definitely in your favor as a student—does not mean "free to copy," especially when it is an entire work.
- If using photographic material, limit your photos/illustrations to material with a Creative Commons license (see below). Both [Flickr](#) and [Google Images](#) allow you to limit searches using their advanced searches to materials with a Creative Commons license.

Information regarding Fair Use for students is available in the listing the resources below.

It is likewise important to realize that *your* work as a student is protected by copyright. Any work you author is automatically copyrighted—whether you filed for copyright or not. While parts of your work may be used under fair use guidelines, other reproduction requires your approval.

Detection services such as *Turnitin* do NOT violate your copyright, as decided in 2009 by the 4th U.S. Circuit Court of Appeals. The text of this decision may be found [here](#), with an interpretation [here](#).)

## **Accommodations for Students with Documented Disabilities**

The Dean of Students Office, the bookstore, and the library work together to ensure that students with disabilities have equal access to materials needed for their classes. The Dean of Students Office will work with the University bookstore to request electronic textbooks. If library material is needed, and fully accessible copies are not readily available from commercial sources, the library will reproduce the material to make it available to the student. The student must agree that this material is for his/her own personal use and will not be distributed to or copied for others. The library may maintain the accessible reproduction for use in meeting the needs of other students with disabilities.

### **Alternatives**

An alternative to using copyrighted material is using works available through Creative Commons. Creative Commons is a non-profit organization that allows creators to share their works, often under certain conditions. Creative Commons provides six different licenses that provide various levels of permissions on the use and copying of works. The Creative Commons website explains what type of conditions are applied to the work by the different licenses. Information on Creative Commons can be found in the listing of resources below.

Many images, media, videos, and music have Creative Commons licenses. Check the search page to see what is available. <http://creativecommons.org/>

If using photographic material, major sites such as [Google Images](#) and [Flickr](#) have advanced searches that allow you to limit your search terms to items with Creative Commons licenses. The *Canvas* LMS also has the capability of finding images on *Flickr* Creative Commons when inserting an image on a page.

## ONLINE RESOURCES

### Copyright Guidelines

The links below can assist Dominican community members in making decisions about the use of copyrighted material in a class.

<b>I want to see if a work is protected by copyright</b>	<a href="http://librarycopyright.net/resources/digitalslider/">http://librarycopyright.net/resources/digitalslider/</a>
<b>I want to know if my using a specific work is considered Fair Use or protected by the TEACH Act</b>	<a href="http://www.librarycopyright.net/resources/fairuse/">http://www.librarycopyright.net/resources/fairuse/</a> (We recommend printing out resulting PDF to keep for one's records.) <a href="https://copyright.lib.utexas.edu/teachact.html">https://copyright.lib.utexas.edu/teachact.html</a> for TEACH Act, which includes a checklist of items
<b>I want to get permission to use copyrighted material for my class.</b>	<a href="http://www.copyright.com/academia/annual-copyright-license/">http://www.copyright.com/academia/annual-copyright-license/</a>

## ADDITIONAL HELPFUL LINKS

### Copyright Basics

Copyright basics from the United States Copyright Office:

<http://www.copyright.gov/circs/circ01.pdf>

Reproduction of Copyrighted Works by Educators and Librarians:

<http://www.copyright.gov/circs/circ21.pdf>

The Copyright Clearance Center has a tool for copyright compliance. There is also a quiz on copyright compliance.

<http://www.copyright.com/Services/copyrighoncampus/index.html>

### Obtaining Copyright Permission

The University of Texas has information on obtaining permission:

<http://copyright.lib.utexas.edu/permisn.html>

### Fair Use Information

Fair Use Evaluator Tool, developed by the Office of Information Technology Policy of the American Library Association:

<http://librarycopyright.net/resources/fairuse/>



Stanford University Libraries Copyright and Fair Use website is a resource for copyright and Fair Use information:

<http://fairuse.stanford.edu/>

The Center for Media and Social Impact has a Code of Best Practices for Fair Use for the Visual Arts:

<http://cmsimpact.org/fair-use/best-practices/fair-use-visual-arts>

The Code of Best Practices in Fair Use created by the Association of Research Libraries:

<http://www.arl.org/focus-areas/copyright-ip/fair-use/code-of-best-practices#.VabKx0WkdVQ>

### **Fair Use Information for Students (Video Overview)**

<https://youtu.be/suMza6Q8J08>

### **TEACH Act Information**

The University of Texas has additional information on the TEACH Act, including a checklist to determine whether the Act applies:

<https://copyright.lib.utexas.edu/teachact.html>

### **Creative Commons**

The University of Michigan Library has a very clear explanation of the conditions applied to Creative Commons works:

<http://www.lib.umich.edu/copyright/creative-commons>

For more information on Creative Commons see: <http://creativecommons.org/>