

Copyright Compliance for Electronic and Print Media

Copyright is the right granted by law to an author or another creator to control use of the work created. The copyright law grants owners of copyright (authors and other creators and publishers) the sole right to do, or allow others to do, each of the following acts with regard to their copyrighted works: to reproduce all or part of the work; to distribute copies; to prepare new (derivative) versions based on the original work; and to perform and display the work publicly.

Copyright protection covers both published and unpublished works. The fact that a previously published work is out of print does not affect its copyright.

Fair Use Doctrine

"Fair use" under the US copyright law permits limited use of portions of a copyrighted work without the copyright owner's permission for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. Section 107 of the Copyright Act establishes four basic factors to be considered in deciding whether a use constitutes a fair use.

These factors are:

- A. The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
- B. The nature of the copyrighted work;
- C. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- D. The effect of the use upon the potential market for or value of the copyrighted work.

No one factor determines a person's right to use a copyrighted work without permission.

Electronic Media

The Federal Copyright law protects electronic media. By protecting the investment of computer software companies in software development and those who provide their work online, the copyright law serves the cause of promoting broad public availability of new and innovative products.

The law says that anyone who purchases a copy of software has the right to load that copy onto a single computer and to make another copy for "archival" purposes only. It is illegal to use that software on more than one computer or to make or distribute copies of that software for any other purpose, unless specific permission has been obtained from the copyright owner. If you pirate software you may face not only a civil suit for damages and other relief but criminal liability as well including fines and jail terms of up to one year.

Print Media

The following guidelines are offered for classroom copying in Not-For-Profit Educational Institutions with respect to books and periodicals.

Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation for each class.

- a. A chapter from a book;
- b. An article from a periodical or newspaper;
- c. A short story, short essay or short poem, whether or not from collective work;
- d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.

Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion provided that:

The copying meets the tests of brevity and spontaneity as defined below; meets the cumulative effect test as defined below; and each copy includes a notice of copyright.

Prohibitions

Notwithstanding any of the above the following shall be prohibited.

- A. Copying shall not be used to create or to replace or substitute for an anthology, its compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated or are reproduced and used separately.
- B. There shall be no copying of or from works intended to be "consumable" in the course of study or teaching. These include workbooks, exercises, standardized tests and test booklets, and answer sheets and like consumable material.
- C. Copying shall not:
 - i. substitute for the purchase of books, publishers reprints, or periodicals;
 - ii. be directed by higher authority; or
 - iii. be repeated with respect to the same time by the same teacher from term to term
- D. No charge shall be made to the student beyond the actual cost of photocopying.

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Definitions

Brevity:

Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or (b) from a longer poem, an excerpt of not more than 250 words.

Prose: (a) Either a complete article, story essay or less than 2500 words, or (b) an excerpt from any prose work of not more than 1000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words. (Each of the numerical limits stated above may

be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)

Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

"Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. "Special works" may not be reproduced in their entirety; however an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof may be reproduced.

Spontaneity:

The copying is at the instance and inspiration of the individual teacher and the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative Effect:

The copying of the material is for only one course in the school in which the copies are made. Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.

There shall not be more than nine instances of such multiple copying for one course during one class term (the limitations stated shall not apply to current news periodicals and newspapers and current news selections of other periodicals.)

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Contact Information

For additional information regarding copyright compliance, contact:

**Florida State University
Office of Audit Services**
407 Westcott
P.O. Box 3061390
Tallahassee, FL 32306-1390

Phone: (850) 644-6031
Email: igs@fsu.edu

To report copyright violations:

Copyright violations of electronic materials such as movies, music, and games should be reported to: dmca@fsu.edu

Print media violations should be reported to: igs@fsu.edu

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Questions and Answers on Copyright for the Campus Community:
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Software Publishers Association.

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Frequently Asked Questions

Electronic Media

What is Software Piracy?

Software Piracy is the unauthorized use of software.

What are some examples of unauthorized use of software?

Purchasing a single user license and loading it onto multiple computers or a server. Making, distributing and or selling copies that appear to be from an unauthorized source. Renting software without permission from the copyright holder. Distributing and or selling software that has been unbundled or separated from the products with which it was intended to have been bundled.

Isn't the University exempt from these laws?

Public and private educational institutions are not exempt from the copyright laws. To the contrary, because of their unique position of influence, schools must remain committed to upholding the copyright laws. Just as it would be wrong to buy one textbook and photocopy it for use by another student, it is wrong for a school to duplicate software or online copyrighted information, or to allow its faculty or students to do so without authority from the publisher.

If I find software, or products (i.e. music CDs or videos) available for download on the Internet, can I assume that I can download it legally?

Not always; there are generally three types of software: Shareware, Freeware and Commercial Software. You may legally download Shareware or Freeware, however Commercial Software such as Norton Utilities, and Adobe PhotoShop are **NOT** legally available for download on the Internet. If you have any questions check with the publisher to determine if the distributor has a license to distribute these products. Downloading products from MP3 sites onto personal web pages, which can then be accessed by others, violates the copyright law.

Does the method through which I purchase software have an impact?

Regardless of the method utilized to obtain software, whether it is through User Services, or any private vendor, the responsibility for having documentation which proves that the software was purchased through formal channels resides with the user of the software. The documentation must be readily available to anyone who may have a need to see it. Examples of appropriate documentation include purchase orders, reports of serial numbers registered to pieces of software and software licenses.

Print Media

Will faculty members who assign customized course anthologies, or the colleges at which they teach, be liable for copyright infringement?

Anyone who violates any of the exclusive rights of the copyright owner is an infringer.

Would I infringe someone's copyright if I were to make multiple copies and either distribute those copies for free or require their use after return?

You may be infringing. You do not have to sell the copies (or permanently dispose of them) in order to infringe the copyright owner's rights.

Can I legally copy a work I bought without infringing the copyright?

The purchaser of a work owns only that copy of the work. The purchaser does **not** own any rights in the copyright covering the contents of the purchased copy.

What are the Penalties for Copyright Infringement?

Under 17 U.S.C. 504:

In a civil suit the copyright holder is entitled to actual damages and any profits made by the infringer. Statutory damages may be awarded any time before final judgment and can be anywhere from \$500 to \$20,000 for each infringement. If intent can be proved then the upper limit moves to \$100,000. If it can be determined that the infringer was not aware and not reason to believe that the acts constituted an infringement, statutory damages of not less than \$200 per infringement will be assessed. This is all at the court's discretion.

Under 17 U.S.C. 505:

The court may also award costs and attorney's fees to the prevailing party.

Under 17 U.S.C. 506:

In a criminal case, the penalty is up to five years in prison for the first offense or a maximum fine of up to \$250,000 or both. A subsequent offense is punishable by up to ten years in prison, or a fine, or both. The copyright infringement must be shown to have been committed willfully.

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