

COPYRIGHT POLICY

Academy College respects the ownership rights of intellectual property in all of its various mediums, including digital and print, by adhering to the Copyright Law of the United States (17 U.S.C.). Academy College requires all faculty members, staff and students to comply with all applicable copyright laws.

COPYRIGHT LAW

The Copyright Law provides owners with exclusive rights including the right to reproduce their work; use their work as a basis for a derivative work; electronically distribute or publish copies; publically perform a work such as a play; and, publicly display an image including on a computer screen. Copyright law applies not only to the reproduction of protected material, but also its use in the classroom setting, whether it is face to face, such as in an on campus classroom, or online.

Under the provisions of 17 U.S.C §102(a) the types of protected works include, but are not limited to

- (1) literary works;
- (2) musical works, including any accompanying words;
- (3) dramatic works, including any accompanying music;
- (4) pantomimes and choreographic works;
- (5) pictorial, graphic, and sculptural works;
- (6) motion pictures and other audiovisual works;
- (7) sound recordings; and
- (8) architectural works.

Under federal law, a copyright owner can be awarded actual damages, the infringers' profits, attorneys' fees, and court costs or opt for an award of statutory damages, which can be as high as \$150,000. Willful infringement can result in criminal fines up to \$250,000 and incarceration up to five years. A permanent injunction can be issued to enjoin all infringing acts. The infringing reproductions as well the equipment used can be impounded and destroyed. Liability still can attach to an individual even if the reproductions are produced by a commercial copy shop.

To aid in the understanding of what works may be reproduced a three step analysis should be used to determine if the work is exempt from copyright protection, if not exempt has the term of protection expired, and if does its use constitute "fair use."

1. The first step is to determine if the work is available for copyright protection. The lack of a copyright notice does not mean that a work is not copyright protected. This has been optional for works published after March 1, 1989. Even unpublished works may have copyright protection.

Under the provisions of 17 U.S.C. §102 (b) copyright protection is not afforded to ideas, procedures, processes, systems, methods of operation, concepts, principles or discoveries. Although not specifically addressed in the statute, descriptions, explanations, or illustrations of these can be copyrighted.

The following categories of works are also are not generally available for copyright protection:

- (1) Facts
- (2) Freeware (not Shareware)
- (3) Works that have not been fixed in a tangible form of expression (e.g. sometime improvised)

- (4) Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents;
- (5) Works consisting entirely of information that is common property and containing no original authorship; and
- (6) U.S. government publications.

2. Copyright protection extends for a set period of time although renewal is available. Upon copyright expiration, a work becomes part of the public domain and can be reproduced without restriction. The table below is a modified listing of works that are in the public domain as of 2011. For a more complete listing of copyright limits see the librarian.

WORKS IN THE PUBLIC DOMAIN	
<i>Registered or First Published in U.S.</i>	
Before 1923	N/A
1923 -1927	Published without copyright notice
1928 – March 1, 1989	Published without copyright notice and without subsequent registration within 5 years
1923 - 1963	Published with notice but copyright not renewed
<i>First Published Outside U.S. by Foreign Nationals or U.S. Citizens Living Abroad</i>	
Before 1923	N/A
1923 - 1977	Published in compliance of source country and in public domain of that country as of January 1, 1996 but not in compliance with U.S. requirements
Published after 1978	Published without copyright notice and in public domain of country where first published`
<i>Never Registered / Never Published</i>	
Unpublished	If author died before 1941
Anonymous and pseudonymous works and those with corporate authors OR unpublished and author's date of death is unknown	If work created before 1891
<i>Sound Recordings Published in United States</i>	
February 15. 1972 - 1978	Published without notice
1978 – March 1, 1989	Published without notice and without subsequent registration

3. Even if a work is not exempt and not in the public domain, reproductions may be made if they qualify under the "fair use" provisions of the Copyright Act, Title 17 U.S.C. §107. "Fair use" is a four factor balancing test. The statutory provisions are reprinted as follows:

§ 107. Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

(1) the purpose and character of the use, including whether such use is of a

- commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

Unfortunately there are no clear standards for this test. There has been debate whether all the factors have equal weight or if the last factor weighs more heavily. Only the courts will be able to determine if a particular use constitutes fair use.

For profit educational institutions only have three out of four factors that can possibly weigh in favor of "fair use." Using the table that follows, if three of the factors favor fair use it is more likely that it is "fair use." If only two of the factors favor "fair use" then it is questionable. When questionable, then it the copyright holder's permission should be sought. It is the responsibility of the instructor to obtain permission from the copyright holder.

	FAIR USE	CAN TILT EITHER WAY	NOT FAIR USE
1	NON-PROFIT EDUCATIONAL USE PERSONAL USE	CRITICISM COMMENTARY NEWS REPORTING TEACHING (MULTIPE COPIES DISTRIBUTED IN CLASSROOM SETTING) SCHOLARSHIP RESEARCH	FOR-PROFIT EDUCATIONAL USE COMMERCIAL USE
2	FACT BASED NOT FICTION	BOTH CREATIVE AND FACTUAL	CREATIVE WORK FICTION
3	SMALL AMOUNT AND PORTION IS NOT AN ESSENTIAL COMPONENT OF THE ENTIRE WORK AMOUNT IS FOR EDUCATIONAL PURPOSES		MORE THAN SMALL AMOUNT PORTION IS ESSENTIAL TO OR IS THE HEART OF ENTIRE WORK
4	NO OR LITTLE ECONOMIC IMPACT FOR COPYRIGHT HOLDER IF USE WAS WIDESPREAD ONE OR FEW COPIES MADE TRANSITORY IN NATURE (E.G. ONE CLASS SESSION AND NOT REPEATED FROM TERM TO TERM) NO LICENSING PROVISIONS LIMITED ACCESS (E.G. TO STUDENTS REGISTERED IN CLASS OR PASSWORD PROTECTED ACCESS TO ONLINE CLASS)	ORIGINAL WORK IS OUT OF PRINT COPYRIGHT HOLDER IS UNIDENTIFIABLE	ECONOMIC IMPACT FOR COPYRIGHT HOLDER IF USE WAS WIDESPREAD (LOSS OF POTENTIAL SALES) AVOIDS ROYALTY PAYMENTS AFFORDABLE PERMISSION IS AVAILABLE PLACED ON A PUBLIC FORUM REPEATEDLY OR FOR LONG TERM USE LICENSING IS EASILY AVIALABLE MATERIAL WAS MEANT TO BE CONSUMABLE SUCH AS WORKBOOKS AND TEST FORMS

DISTANCE EDUCATION

The "fair use" analysis is also to be used in distance education courses. Exemptions provided for in the Technology, Education and Copyright Harmonization Act (TEACH) applies only to non-profit educational institutions. However it is useful to note that the American Library Association developed TEACH guidelines by which instructors may use copyright protected material without the holder's permission.

Briefly summarized, course instructors and the institutions must limit access to copyrighted material by limiting it to students enrolled in the class and that the material only is made available for the length of time required to complete the class session or course. In addition there must be measures to prevent the copying and redistribution of protected works and that a warning must be attached to the material indicating that copying and redistributing these materials can constitute a violation of the copyright law. When TEACH was enacted, it was envisioned that exempted material would not to be available for the entire course term. Rather it would be transitory and limited to a class session similar to a class session on campus meaning that it would not be viewable for the entire term.

In Academy College's distance education courses, only protected material that meets the "fair use" standard may be uploaded otherwise the copyright holder's permission is required. In order that it may be considered transitory in nature, this material may be only accessible to students enrolled in the class and be viewable only for a limited amount of time preferably for no longer than one week. Any such material must be in a format that does not only allow students to download a copy. Any protected material must include the posting of a copyright notice.

LIBRARY USE

For profit schools are not allowed the exemptions afford to the libraries of non-profit education institutions. The library reserves the right to refuse to add to its collection or to place on reserve any material it feels may be in violation of the copyright laws.

FILE SHARING

File sharing programs are not illegal. However, it is a violation of copyright laws if music, movies, software and/or other forms of media, in part or in their entirety, are downloaded, uploaded or distributed without the express permission of the copyright holder. The only exceptions are works that are in the public domain or are labeled as free by the copyright holder. It is well known that copyright holders are vigilant in searching for and the prosecution of file sharing violations.

For academic purposes, the "fair use" test may be applicable for some file sharing. It cannot be applied for personal recreational use and in no instance is personal file sharing use permitted on the school's computers. The school's computers are regularly monitored for illegal activity and known peer to peer network addresses and websites are blocked.

The library maintains information on internet sites that list legal downloading sites and legal alternatives for downloading.

COMPUTER USAGE AND PHOTOCOPY MACHINE USAGE

On campus computers are to be limited to school work and in the library school work and job searches. Recreational use in any form is not allowed.

The following notice applies to all usage.

NOTICE: The copyright law of the United States (Title 17, U.S. CODE) governs the making of photocopies or other reproductions of copyrighted material. Unauthorized photocopies or other reproductions beyond the scope of any copyright exemptions may be a violation of the law. The person using this machine is responsible for and may be liable for any copyright infringement.

Academy College reserves the right to refuse access to and use of this machine for making photocopies or other reproductions if, in its judgment, such photocopies or reproductions would be in violation of the copyright law.

VIOLATIONS OF THE COPYRIGHT LAW

Individuals are liable for any copyright violations. In addition, violation/s on the part of faculty member may result in the cancellation of his/her contract. Violation/s on the part of the staff may result in their dismissal. Violation/s on the part of a student/ may result in disciplinary action.