Copyright Guidelines

Guide to Online Use of Published Material in SNHU Courses

The Shapiro Library prepared the following guide to educate members of the SNHU community on issues related to copyright and the fair use of published material in support of SNHU courses. This guide is intended for educational purposes only and does not constitute legal advice or SNHU policy. Please refer to the SNHU Copyright Policy, the SNHU File Sharing Policy, and other applicable policies for more details on official SNHU policy. As a reminder, SNHU community members are responsible for adhering to U.S. copyright laws and applicable SNHU policies.

What Is Copyright?

Intellectual property is a term for property created using a person’s intellect, such as inventions or creative works. Copyright is one way that individuals can protect their intellectual property. Other methods of protecting intellectual property include trademarks and patents.

This guide discusses copyright. A copyright provides the author or creator of an original work expressed in a tangible medium with a set of exclusive rights. Original works include screenplays, books, photos, videos, blog posts, articles, and other expressions of ideas. A copyright provides the author or creator with the right to copy, distribute, and/or adapt the work.

Authors or creators of a copyrightable work are not required to submit any registrations or other documents in order to ensure that their work is protected by copyright. Although they can choose to register their work with the Copyright Office of the Library of Congress, such registration is not required to enjoy the protections of copyright.

Exceptions to Copyright Law

The Public Domain

Some works, however, are not subject to copyright law because they are in the public domain. Works that are part of the public domain can be used by others without copyright clearance or any further fair use analysis. In general, works can enter the public domain if they are assigned to the public domain by their creators or, more commonly, if the copyright on them has expired.

Copyright expires on works after a certain period of time. The timeframe to apply depends upon the specific work and the circumstances surrounding its creation. However, in general, works published before 1923 are part of the public domain, other works will pass into the public domain seventy years after the author has died, and, in the case of anonymous works or works drafted by a corporation, copyright will run 95 years from the date of publication or 120 years from the date of creation, whichever is shorter. One helpful tool to aid in determining if a work is in the public domain is the Copyright Digital Slider, available at http://librarycopyright.net/resources/digitalslider/.

Government Works

Another exception to copyright law are government documents created by an officer or employee of the U.S. government as part of that person’s official duties. These works are not protected by copyright law.

Other Licenses
Material published in an open format, such as under a Creative Commons license (http://creativecommons.org/licenses/), may be used in accordance with the license.

**When Can I Use Someone’s Work?**

*Linking*

In general, providing students with links to material available on the internet or in library databases is not prohibited by copyright law. Keep in mind, however, that in certain circumstances, specific licensing agreements prohibit linking. In addition, linking to illegally created material that infringes on copyrights can be considered contributory copyright infringement and should be avoided.

*The Fair Use Defense*

The Fair Use defense allows for limited use of copyrighted materials without the creator’s permission. Typical examples of use that may fall under the fair use defense include commentary, criticism, news, research, teaching, scholarship, or citation, although courts use a variety of factors in determining whether any given circumstance constitutes fair use. These factors 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.

Although it is difficult to generalize, the following guidelines are general best practices:

- When using an excerpt the portion of the material used should not be “the heart of the work.”
- Access to the material must be limited to students enrolled in the course and must not persist beyond the end of the course.
- Students must be reminded of the limitations of the U.S. Copyright Law and must be expressly told that policy prohibits re-distribution of copied material.
- Copied material “must fill a demonstrated, legitimate purpose in the course curriculum” and be narrowly tailored to accomplish it.
- The duplication of works that are consumed in the classroom, such as standardized tests, exercises, and workbooks, normally requires copyright clearance.
- Materials purchased on an individual basis, such as case studies, cannot be posted without copyright clearance.
- Material borrowed through interlibrary loan cannot be posted without copyright clearance.

Although not a codified part of the Fair Use defense, the Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with Respect to Books and Periodicals suggests best practices to help instructors determine when they may use multiple copies of a copyrighted material for student learning use (i.e. one copy per student in a course). The following serve as best practices and can help guide instructors:

- The copying should meet the brevity test
  - Poetry: A complete poem if less than 250 words (no longer than 2 pages printed) or an excerpt of not more than 250 words if the poem is longer
  - Prose: A complete article, story, or essay of less than 2,500 words or an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less
- The copying should meet the spontaneity test
- Copying is at your instance and inspiration (at the instance and inspiration of the individual teacher)
- 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
  - The copying should meet the cumulative effect test
    - The copying of the material is for only one course
    - Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, not 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
  - Each copy should include a notice of copyright

The full text of this agreement is available on page 68 at the following link: https://www.copyright.gov/history/law/clrev_94-1476.pdf

Copyright clearance can be obtained through vendors such as the Copyright Clearance Center.

If you have questions regarding the copyright status of a particular work, please contact your library liaison.