



SOUTHERN UTAH UNIVERSITY
Policies and Procedures

Policy # 5.54
Date Approved: 06/25/04
Date Amended: 09/28/12
Reviewed w/no Changes:
Office of Responsibility: Prov
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SUBJECT: COPYRIGHT POLICY

I. **PURPOSE:** To define the university's policy for the use of copyrighted material in compliance with U.S. copyright law.

II. **REFERENCES:**

Fair use exemption - 17 U.S.C. §107

Libraries and archives use exemption - 17 U.S.C. §108

Exemptions for performances and displays including the TEACH Act - 17 U.S.C. §110).

III. **POLICY:**

A. Copyright is a set of exclusive legal rights authors have over their intellectual property for a limited period of time. The owners' rights include copying the works, making derivative works, distributing and performing the works. Currently the author's rights begin when a work is created. A work does not have to have a copyright notice or be registered to be copyrighted. Copyright protects "a unique expression" but does not protect facts, systems, processes or ideas. The Copyright Act (Title 17 of the U.S. Code) is available at <http://www.copyright.gov/title17/>

B. The use of copyrighted material shall be determined through a good faith attempt to remain in compliance with legal and ethical mandates while exercising one's right to free speech. Exercising specific exceptions to copyright protection should be considered when exploring the need for permission from the copyright owner.

C. Fair use - The four factors are:

- the purpose and character of use
- the nature of the copyrighted work
- the amount and substantiality of the portion taken, and
- the effect of the use upon the potential market

Purpose



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Fair use presumes the user will act to secure formal permission when necessary. If the copy is used for teaching at a non-profit institution, distributed without charge and made by a teacher or students acting individually, then the copy is more likely to be considered as fair use.

Favoring Fair Use	Opposing Fair Use
Teaching (including multiple copies for classroom use)	Commercial Activity
Research	Profiting from the use
Scholarship	Entertainment
Nonprofit Educational Institution	Bad-faith behavior
Criticism	Denying Credit to original author
Comment	
News Reporting	
Transformative or Productive Use (changes the work for a new utility).	
Restricted Access	
Parody	

Nature



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An article from a newspaper would be viewed differently than a workbook made for instruction. Multimedia material has different standards. For example, a digitized picture from a weekly magazine, a video clip from a popular movie and an audio selection from a Platinum CD will be treated differently.

Favoring Fair Use	Opposing Fair Use
Published Work	Unpublished work
Factually based	Highly creative work (art, music, films...)
Important to favored educational objectives	Fiction

Amount

Copying of extracts, generally speaking, when compared to the whole is more likely to be considered fair use.

Favoring Fair Use	Opposing Fair Use
Small Quantity	Large Portion
Portion is not central or significant to the entire work	Portion used is central or "heart of the work"
Amount is appropriate for favored educational use	

Effect



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In general, a work that supplants the normal market is more likely to be seen as an infringement but a work does not have to have an effect on the market to be an infringement.

Favoring Fair Use	Opposing Fair Use
User owns lawfully acquired or purchased copy of original work	Could replace the sale of copyrighted work
One or few copies made	Significantly impairs market or potential market for copyrighted work or derivative
No significant effect on the market or potential market for copyrighted work	Reasonably available licensing
No similar product marketed by the copyright holder	Affordable permission available
Lack of licensing mechanism	Numerous copies made
	Copy was made accessible via the web or in a public forum
	Repeated or long term use

- D. Exemptions for library or archive reproductions – Section 108 of Title 17 identifies uses for which libraries or archives may reproduce copyrighted material for specified purposes.
 - E. Exemptions for certain performances and displays – Section 110 of Title 17 provides special exceptions for the performance or display of copyrighted material by students or instructors for face-to-face teaching activities in a place devoted to instruction.
- IV. For information involving copyright issues, the Sherratt Library will provide assistance. For legal advice, faculty and staff shall contact SUU legal counsel.