



Category

POLICY: 2-10 Copyright Policy

Approval

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Responsible Party: Executive Director of Human Resources

Policy Statement

It is the policy of WSU Tech (“College”) to comply with the U.S. Copyright Act of 1976. All WSU Tech faculty, staff, students are expected to act as responsible users of the copyrighted works of others which includes making informed decisions based on the fair use exemptions to the copyright laws.

Purpose

The Higher Education Opportunity Act (HEOA) requires WSU Tech to have processes in place to effectively combat the unauthorized distribution of copyrighted material and, to the extent practicable, offer alternatives to illegal downloading or peer-to-peer distribution of intellectual property.

Copyright infringement constitutes a violation of Institutional policy and may create potential liability for both civil and criminal actions. Action on the part of the Institution as a matter of policy does not remedy a user against possible legal actions from the content owner or possible criminal actions on the part of law enforcement.

WSU Tech complies with HEOA requirements as follows:

- Publishes warnings online, in print, and in presentations that students who violate copyright laws may be subject to disciplinary action by the College as well as prosecution under State and Federal guidelines.
- The Vice President of Student Services annually discloses this information to students through electronic means that defines copyright law, details College rules for file sharing, and lists legal alternatives for acquiring copyrighted materials.
- Information Technology monitors network activity and utilizes network appliances specifically for stopping illegal file sharing and copyright use. See College Policy 9-03

Copyright Notice – Warning Concerning Copyright Restrictions

The Copyright Act (17 U.S.C. §101 et seq.) grants the owner or creator of a creative work the exclusive right to use and make copies of that work for the time specified by law. Examples of

works protected under the Copyright Act include poetry, movies, television programs, other audio visual works, video games, plays, paintings, sheet music, recorded music performances, books, computer programs, sculptures, photographs, choreography and architectural designs. The Copyright Act does not protect the ideas or facts upon which a work may be based - only the author's fixed, original and creative expression of those facts or ideas.

Generally, for a work to be eligible for copyright protection, the work must be (a) "original" meaning the creator must have independently created the work without copying another's work, (b) exhibit some minimal amount of creativity, (c) the subject matter of the work must be subject to protection by copyright, and (d) "fixed in a tangible medium of expression," meaning it must exist or have existed in some physical form for some period of time, no matter how brief.

Creativity requires that the original aspects of the work must be distinguishable variations from works that have come before, likewise denying copyright protection to words, short phrases, titles, slogans, mere listing of ingredients or contents, numbers generated sequentially or randomly, and works dictated solely by functional considerations, such as business forms. Under the Copyright Act, the owner has six exclusive rights concerning his or her work during the statutory term of copyright protection, which rights are subject to a number of limitations set out in the Copyright Act. The following is a short summary of the owner's six exclusive rights concerning use and copying of his or her work:

- ◆ Reproduce the work in tangible fixed copies
- ◆ Distribute tangible fixed copies of the work to the public by gift or for sale, rent, or loan
- ◆ Publicly display certain types of works
- ◆ Publicly perform certain types of works
- ◆ For sound recordings, publicly perform the work by means of a digital audio transmission
- ◆ Adapt, modify or prepare derivative works based on the prior work

Taking any of the above listed actions with regard to a copyright protected work without the permission of the owner is infringement.

Fair Use

"Fair use" is an affirmative defense to a claim of infringement. Fair use is codified in Section 107 of the Copyright Act and is ultimately determined by a court. Generally speaking, news media, educators, nonprofit organizations, researchers and anyone else making use of copyrighted materials without permission for certain limited purposes, such as commentary, parody, news reporting, research and education are making "fair use" of such materials and will have an affirmative defense to any claim of infringement from the owner of the copyrighted materials.

Section 107 defines "fair use" as the balancing of a number of factors, four of which are included as examples in the text of Section 107 of the Copyright Act. The exemplary four factors can be summarized as follows:

- ◆ The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
- ◆ The nature of the copyrighted work;
- ◆ The amount and substantiality of the portion of the work used in relation to the copyrighted work as a whole; and

- ♦ The effect the use of the work would have on the potential market for or the value of the original work.

The distinction between "fair use" and infringement is unclear and is not easily defined. There is no specific number of words, lines, or notes that may safely be taken without permission. Legal scholars, lawyers, politicians, copyright owners and other interested parties fail to agree upon the meaning and scope of fair use, and litigation concerning the meaning and scope of fair use is ongoing.

Guidelines on the use of certain types of copyright protected works in the classroom were published as part of the legislative history of the Copyright Act of 1976. The Conference on Fair Use made an attempt to negotiate guidelines for use of copyright protected materials in distance learning, multimedia, image and electronic reserve by eliciting the comments of legal scholars, lawyers, politicians, copyright owners and other interested parties. But these guidelines are long and complex, none of the participants were satisfied with them, and they will not serve as a "safe harbor" against litigation. It is also important to note that fair use guidelines in the educational context do not necessarily translate into a "safe harbor" for purposes other than education. Ultimately, it is important to be reasonable when using copyright protected materials, and the adapted version of the various guidelines provided below can assist you with determining what is reasonable.

Alternatives to illegal downloading can be found here:

<http://www.educause.edu/legalcontent>

Additional information on copyright law can be found online from the U.S. Copyright Office.

<http://www.copyright.gov>

Information on copyright has been compiled by the American Library Association <http://www.ala.org/ala/issuesadvocacy/copyright/index.cfm>; the Association of American University Presses <http://www.aaupnet.org>; the Copyright Clearance Center <http://www.copyright.com>; the National Association of College Stores <http://nacs.org> and the Software and Information Industry Association <http://siii.net>.

Digital Millennium Copyright Act Policy

It may be a violation of copyright law to copy, distribute, display, exhibit or perform copyrighted works without authority of the owner of the copyright. It is WSU Tech's policy that users of Internet services and equipment provided by the College are responsible for their compliance with all copyright laws pertaining to information they place on or retrieve from the Internet.

Responsibilities: All individuals who use College internet services are responsible for their compliance with copyright laws. All instances of reported copyright violations will be reported to the appropriate College authority for possible disciplinary actions.