

Copyright Policy ADM 6.0 Academic Affairs

Policy Type: Administrative

Applies to: Faculty, staff, student employees, students, and volunteers

POLICY DATES

Issued: pre-2018

Revised: 2/8/2019

Edited:

Reviewed: 4/5/18

The copyright act contains several exemptions that allow a person or an institution to use or copy a copyrighted work without the owner's permission. Works that were never copyrighted or whose copyright has expired are in the public domain, with no copyright protection whatsoever. Works created by the federal government also are in public domain.

The Act has a major exemption that concerns colleges and universities. This provision is referred to as the Doctrine of Fair Use.

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Definitions

Term	Definition
Doctrine of Fair Use	Allows the copying of works for purposes such as teaching, scholarship, and criticism.

Policy Details

A. Single Copy Guidelines

The guidelines to the Doctrine of Fair Use allows an instructor to make a single copy of the following items for his/her own use in research, teaching, or preparation to teach:

1. A chapter from a book;
2. An article from a periodical or newspaper;
3. A short story, short essay, or short poem;
4. A chart, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.

B. Multiple Copy Guidelines

The guidelines allow an instructor to make multiple copies (up to one copy per student in a course) for classroom use or discussion under the following conditions:

1. The copies excerpt must be brief. The excerpt cannot exceed: 250 words of a poem, a complete prose piece of 2,500 words or less; 1,000 words (up to 10%) of a longer prose piece; one illustration from a book or periodical issue; two pages or 10% of a children's book.
2. The need for copying must be spontaneous. The decision to use the work must be made so soon before it is time to use it in a classroom that there is not reasonable time to obtain permission from the copyright owner. An instructor does not act spontaneously in repeatedly copying the same item from semester to semester. It is not spontaneous to copy course material at the beginning of a semester for use weeks or months later. The copying must be at the instance and inspiration of the individual teacher, not a supervisor or administrator.

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3. The cumulative effect of the copying must not be great. The copying can be for only one course in the school. Copying must be limited to one short item or two excerpts from the same author, and three from the same collective work or periodical volume (other than news articles)

The Fair Use Doctrine [Section 107 of the Copyright Law](#) permits a person to apply the statutory exemption, for each use when engaging in a copyright holder's exclusive rights. It affords the legal opportunity to determine permission to use a copyrighted work without permission, under certain circumstances, if specific criteria are met, and when the exemption's analysis is applied for each incidence of use.

Can you apply the statutory exemption for fair use? Use it if you are:

- using a protected work
- your aim is comment, criticism, teaching, research, scholarship, parody, etc.
- you are engaging in an exclusive right of the copyright holder (copy, distribute, adapt, display publicly, perform publicly)

The **Fair Use Four Factor Test** is the standard for determining fair use. All four factors must be applied to each use and all factors must be weighed, or balanced, for a final judgment of fair. Copyright is balance, seeking a reasonable use for the person who does not have exclusive rights to use the copyrighted work, and protecting the copyright holder's interest and contributions, and incentive for future works. Applying the fair use test provides the balance between creators and users.

There are four factors that must be considered and balanced. One factor is applicable to you and what you are doing with the copyrighted work, and the other three are applicable to the copyrighted work:

- **Purpose and character of the use**
 - *Favorable use: teaching, research, scholarship, non-profit, criticism, parody, comment, news reporting, transforming use, employing restricted access*
 - *Not favorable: verbatim copying, profitable use, entertainment, bad-faith behavior, commercial use*
- **Nature of the work**
 - *Favorable use: published work, factual or nonfiction work, clear educational objectives germane to the your use of the work*
 - *Less favorable, more protected: Unpublished work, highly creative work, fiction*
- **Amount and substantiality of work used**
 - *Favorable use: small quantity in relation to whole, the portion used is not central or significant to entire work, is not considered the heart of the work, amount is appropriate for educational purpose*
 - *Not favorable: large portion used, the portion used is central, significant, and considered the heart of the work*
- **Effect of the use on the market or potential market value of the work**
 - *Favorable use: work is lawfully acquired, one or few copies are made, no significant effect on the market or potential market for the copyrighted work, lack of licensing mechanisms, lack of permissions market*
 - *Not favorable: replacement for or circumvention of the purchase of the copyrighted work, significantly affects the market or potential market value of the copyrighted work or its derivative work, licensing mechanisms are an option, permissions-market is strong, many copies are made, copy is made electronically accessible, repeated long-term use. Includes out of print and unpublished works that could have potential market value.*

Responsibilities

Position or Office	Responsibilities
Academic Affairs	Answer questions about policy
Libraries	Answer specific questions and explain policy; educate students and faculty

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Resources

Contacts

Position	Office	Telephone	E-mail/URL
VP for Academic Affairs	Academic Affairs	330-823-2690	Academic@mountunion.edu
Director of Libraries	Main Library	330-823-3890	circ@mountunion.edu

History

All changes must be listed sequentially, including edits and reviews. Note when the policy name or number changes.

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