

Copyright Infringement and Peer to Peer File Sharing Guidelines

The Fair Use Guidelines of the Copyright Revision Act of 1976 place several restrictions on the duplication of copyrighted material. Copyright is legal protection of intellectual property, in whatever medium, that is provided for by the laws of the United States to the owners of copyright. Types of works that are covered by copyright laws include, but are not limited to, literary, dramatic, musical, artistic, pictorial, graphic, film and multi-media works. Many people understand that printed works such as books and magazine articles are covered by copyright laws but they are not aware that the protection extends to software, digital works, and unpublished works and it covers all forms of a work, including its digital transmission and subsequent use. Copyright is an issue of particular seriousness because technology makes it easy to copy and transmit protected works over our networks.

The Higher Education Opportunity Act (HEOA) of 2008 charges U.S. colleges and universities to combat unauthorized file sharing on campus networks, imposing the below requirements:

- An annual disclosure to students describing copyright law and campus policies related to violating copyright law;
- A plan to "effectively combat the unauthorized distribution of copyrighted materials" by users of its network, including "the use of one or more technology-based deterrents"; and
- A plan to "offer alternatives to illegal downloading".

Copyright Guidelines:

It is permissible for faculty to make a single copy of a chapter from a book, an article from a periodical or newspaper, a short story, essay, poem, chart, graph, diagram, drawing, picture from a book, song, periodical, or newspaper for his or her own scholarly research or teaching. Multiple copies for classroom use can be made, provided the copying meets the following tests:

Brevity. A complete poem can be copied if it is less than 250 words or not more than two pages. Excerpts of not more than 250 words can be copied from longer poems. A complete article, story, or essay can be copied if it is less than 2,500 words. Excerpts of not more than 1,000 words or 10 percent of the work, whichever is less, can be copied from longer works. One chart, graph, diagram, cartoon, picture, or other illustration per book or per periodical issue can be copied.

Spontaneity. A copy can be made without obtaining permission if the copying is at the insistence and inspiration of the faculty member and if the decision to use the work and the moment of its use are so close in time that it would be unreasonable to expect a timely reply to a request for permission. Permission must be sought if the professor desires to use the excerpt in subsequent course offerings.

Cumulative effect. A copy can be made without obtaining permission if it is for only one course in the school. Not more than one short poem, article, story, essay, or two excerpts may

be copied from the same author, nor more than three from the same collective work or periodical volume during one class semester.

Any copies distributed in class must include notice of copyright. Copying cannot be used to create, replace, or substitute for anthologies, compilations, or collective works. Copying of works intended to be "consumable" in the course of study or teaching (e.g., workbooks, exercises, standardized tests, etc.) is prohibited under current copyright laws. Also, these laws stipulate that any copying shall not substitute for the purchase of books, publisher's reprints, or periodicals. Permission must be obtained if the faculty member plans to copy the same item from semester to semester. No charge can be made to the student beyond the actual cost of photocopying. Digital/electronic works are often protected by license/contract in addition to copyright, and use can be very restricted. Professors are responsible to obtain the proper permission for fair use.

Any materials beyond these limits may be produced if permission is obtained from the publisher. In requesting permission please specify the source of the material, title, author, publisher, copyright date, page or pages to be produced, number of copies to be produced, how the material is to be produced (i.e., photocopied, printed, etc.), and where or how the material is to be distributed or used.

Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505. Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

The unauthorized distribution of copyrighted material, including through peer-to-peer file sharing, may subject a student to criminal and civil penalties. The laws that govern copyright are not specific to any one technology. Students can violate the rights of a copyright holder using many different types of technology. Both uploading and downloading of files can pose a violation of the copyright law. Students should be cautious when obtaining any copyrighted material. As a rule of thumb, before a student receives anything for free, they should research whether that source provides material licensed by the copyright owner.

Educating the Community: The University uses appropriate mailing and distribution of documents (e.g., inclusion of information in the student handbook, University catalog, student orientation and campus-wide email notifications) to inform students, staff and faculty about appropriate and inappropriate uses of copyrighted materials. These educational efforts will include information that informs everyone that unauthorized distribution of copyrighted material

may subject a person to civil and criminal liabilities, a summary of penalties for violation of Federal copyright laws; and a description of the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions that are taken against those who engage in illegal downloading or unauthorized distribution of copyrighted material.

Disciplinary Procedure: Disciplinary action, up to expulsion from the University or termination of employment, is compulsory for those that violate the University's stated policies. If the violation occurs off campus and is not related to an event or activity of the University, disciplinary proceedings will not be initiated by the University unless the nature of the violation dictates that continued attendance of the student or service of the employee would be detrimental to others or to the University. Through coordination with local law enforcement, any criminal activity on or off campus, may be reported and can result in sanctions; violators of serious offenses reported through the judicial system may be subject to criminal trial, fines and/or incarceration. In the event that a student or employee is charged with a violation, he or she will be required to meet with the Director of Student Services and/or Executive Assistant of the University. The student or employee will be notified in writing of the alleged violation(s) at the time and place of the meeting. A serious allegation may warrant an interim suspension of the student or employee prior to the meeting.

Sanctions: Non-academic sanctions are imposed by the Director of Student Services or Executive Assistant of the University; however, in some cases, consultation with the President or other members of the administrative staff may be necessary. Violations may be subject to one or more of the following sanctions:

- Warning - an oral notice to the student or employee that he or she has not met the Code of Conduct of Williamson University; the warning includes a caution that if the conduct is continued or repeated, a more serious sanction may be imposed; a record of the oral warning will be placed in the student or employee file.
- Reprimand - a formal, written notification censuring the student or employee for his or her failure to meet the responsibility standards of the University; written reprimands are given to the violator and a copy is placed in the student or employee file.
- Restitution and Fines - the requirement to make restitution or to pay a fine for misuse of or damage to University property.
- Rehabilitation Program - the mandatory participation in and completion of a rehabilitation program.
- Suspension - a temporary withdrawal of the student from University classes or the employee from University work commitments, for serious violations of University policies; notice of suspension is given to the student or employee in writing and indicates the period of suspension and any special conditions that must be met prior to reentry; the violator will remain on probation for a specific period of time; record of the suspension will be placed in the student or employee file.
- Expulsion or Termination - the expulsion of the student from the University or termination of the employee from his or her job for serious violations; notice of expulsion or termination is given to the student or employee in writing; record of the expulsion or termination will be placed in student or employee file.

Appeals Procedure: If a student or employee wishes to appeal a sanction imposed by the University, he or she must provide written notification to the Director of Student Services or Executive Assistant of the University within five business days of the imposition of a sanction.

The notification must include reasons he or she believes an appeal is necessary and any supporting documentation he or she may possess. Upon receipt of the appeal by the appropriate department, a Disciplinary Committee shall convene and a chairperson will be appointed to consider the appeal. The chairperson of the committee will notify the student or employee in writing of the date, time and place of the appeal hearing related to the sanction. As such, the student or employee must respond to the chairperson of his or her intent to be present during the hearing. Should the student or employee fail to attend the hearing, the committee will consider the written appeal and any supporting documentation as the basis for the appeal. Upon hearing the appeal, the student or employee will be informed of the committee's decision from the chairperson in writing. The decision of the Disciplinary Committee is final.

Program Review: The University will annually review the effectiveness of its program to combat the unauthorized distribution of copyrighted material, which shall also include reviewing legal alternatives available for downloading or otherwise acquiring copyrighted material. Relevant assessment criteria could include items such as reviewing whether the institution is following best practices.

Reporting a copyright infringement

You can report alleged copyright infringements to Williamson University or direct other copyright questions to the academic department by calling 615-771-7821.