



Winthrop University Copyright Policy

**Approved by the Executive Officers of
Winthrop University August 9, 2006**

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STATEMENT OF POLICY

In recognition of its mission to further teaching, learning and research and engage in public service, Winthrop University is committed to fostering an environment that provides for the fair use of copyrighted works to achieve these goals while remaining in compliance with applicable laws. University users of copyrighted works are accorded the rights and privileges pursuant to 17 U.S.C. §§[107](#) (Fair Use), [108](#) (Reproduction by Libraries and Archives), [109](#) (First Sale Doctrine and Transfers), [110](#) (Teaching Exception) and other statutory exemptions and limitations to the exclusive rights granted to the owner of a copyright protected work. While the University does not intend to unduly restrict the use of works otherwise permitted under law, it is the policy of Winthrop University to comply with federal copyright law and all related law codified at [17 U.S.C. §101 et seq.](#)

All faculty, staff, and students must adhere to University copyright policy and are expected to seek consultation and advice from the Dean of Library Services when using the copyrighted works of others. It is the policy of the University to inform and educate faculty, students, and staff regarding federal copyright law, the rights of copyright owners, the legal obligation of the University to comply with applicable law, and the rights of the University community to use copyrighted works.

Definition

Copyright is a form of protection the law provides to the creators of “original works of authorship” for their intellectual works, both published and unpublished. Although the rights provided by the law to the owners of the copyright are not unlimited in scope, it is illegal to violate any of these rights.

Scope of Copyright Policy

The [Copyright Act](#), 17 U.S.C. § 101 (effective date: 1978), balances the author’s interest against the public interest in the dissemination of information in areas of universal concern, such as art, science, history, and business. The intent of this balance is to foster the creation and dissemination of intellectual works for the general public.

Copyright protection exists in original works of authorship fixed in any *tangible* medium of expression from which they can be perceived, reproduced, or communicated either directly or indirectly by the aid of a machine or device. Works of authorship include literary works (books and printed material); computer software; musical works (including lyrics); video productions (motion pictures, videotapes); sound recordings; and dramatic works (plays).

Statutory copyright protection does not include works that have not been fixed in a tangible form of expression such as titles, names, short phrases and slogans; works consisting entirely of information that is common property; and ideas, procedures, methods, concepts, principles, discoveries, systems, devices, and processes.

Fair Use

The Copyright Act defines the rights of a copyright holder and how they may be enforced against an infringer. Included within the Copyright Act is the “fair use” doctrine which allows, under certain conditions, the copying of copyrighted material. While the Copyright Act lists general factors under the much-misunderstood heading of “fair use,” it provides little in the way of specific directions for what constitutes fair use. The law states:

Notwithstanding the provisions of section 106, the **fair use** of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting,

teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall 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.

Notwithstanding the above, fair use copying of software is limited by 17 U.S.C. § 117. (17 U.S.C. § 117. Limitations on exclusive rights: fair use. Emphasis added.)

“Fair Use” is by far the most confusing component of copyright law. Despite what most teachers think, it is not a *carte blanche* license to do whatever one wants “because I am using this material to teach.” Litigation has established limitations on copies for “nonprofit educational purposes” guided by quantitative limits under item 3. Therefore, this term cannot be interpreted as a blanket license to distribute materials in an unrestricted fashion for academic use. In all cases, a fairly conservative approach to interpreting “fair use” is probably the safest course to follow.

The Digital Millennium Copyright Act

The [Digital Millennium Copyright Act \(DMCA\)](#) is a 1998 amendment to the Copyright Act of 1976 that establishes certain limitations of copyright infringement liability for online service providers (OSPs), including colleges and universities, when certain requirements are met by the OSP. The Act contains a number of other provisions, including prohibitions on circumvention of technological protection measures among others.

The TEACH Act

Since the passage of the Digital Millennium Copyright Act (DMCA) in 1998, the vexed question of fair use of copyrighted materials in university classrooms has become even murkier. In November 2002, Congress passed H. R. 2215, the [Technology, Education, and Copyright Harmonization Act \(TEACH\)](#) to update copyright law regarding the digital use of copyrighted material. Under this law, if both the individual faculty member and the institution meet a number of specific guidelines (see below), the Act permits digital transmission of copyrighted works for educational purposes without obtaining permissions. TEACH is more restrictive than the “fair use” regulations that govern print materials, but early indications are that the government may begin to use the TEACH standards of fair use to apply to almost any educational copyright case.

All of these laws are fully documented at www.copyright.gov.

UNDERSTANDING THE WINTHROP COPYRIGHT POLICY

To help members of the University community understand current copyright law and its implications for our use of copyrighted material, we provide the following discussion and guidelines. This is an interpretation and should not be construed as legally-binding; it represents the collective interpretation of many people who are learned in the area but who are not lawyers. If you have specific legal questions about the policy, please consult the Dean of Library Services.

What Is Protected by Copyright?

Copyright protection of any work, be it print, visual, or digital, begins as soon as an **original** work is created in a tangible medium of expression. Publication and/or registration of the work are **not** required to trigger copyright protection. Drafts, assignments, sketches, home movies, family pictures, letters, etc., as well as more formal works, are fully protected by copyright as soon as they are fixed in a physical form. The level of originality required is minimal. A work does **not** need to display the © symbol or a statement that the material is copyrighted to be protected.

When creators speak of "copyrighting" their work, they are probably referring to registering their work formally with the [United States Copyright Office](#). Registering the work, while not necessary to obtain full copyright protection, is relatively straight-forward, inexpensive, and recommended.

How long does copyright last?

In an effort to end what amounts to perpetual protection, Congress has devised a scheme to allow unpublished works to begin entering the public domain in a gradual fashion. Unpublished works began to enter the public domain on December 31, 2002, as long as the creator had been dead for at least 70 years. At the end of each subsequent year, additional works meeting these criteria will enter the public domain. The following chart shows the time constraints under the current copyright law.

DATE OF WORK	PROTECTED FROM	TERM
Published before 1923	In public domain	None
Published from 1923 - 63	When published with notice ³	28 years + could be renewed for 47 years, now extended by 20 years for a total renewal of 67 years. If not so renewed, now in public domain
Published from 1964 - 77	When published with notice	28 years for first term; now automatic extension of 67 years for second term
Created before 1-1-78 but not published	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2002, whichever is greater
Created before 1-1-78 but published between then and 12-31-2002	1-1-78, the effective date of the 1976 Act which eliminated common law copyright	Life + 70 years or 12-31-2047 whichever is greater
Created 1-1-78 or after	When work is fixed in tangible medium of expression	Life + 70 years ¹ (or if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation ²)

- 1 Term of joint works is measured by life of the longest-lived author.
- 2 Works for hire, anonymous and pseudonymous works also have this term.
- 3 Under the 1909 Act, works published without notice went into the public domain upon publication. Works published without notice between 1-1-78 and 3-1-89, effective date of the Berne Convention Implementation Act, retained copyright only if efforts to correct the accidental omission of notice were made within five years, such as by placing notice on unsold copies. (Notes courtesy of Professor Tom Field, Franklin Pierce Law Center, and Lolly Gasaway) Chart used by permission. Source: <http://www.unc.edu/%7Euncing/public-d.htm>.

Who owns the copyright to a work?

Generally the creator (or his/her estate) holds the rights to a work unless they have been assigned elsewhere (to a journal, a publisher, the company that distributes the movie or CD, etc.). This can be a most difficult process to ferret out. For example, everyone knows Aristotle is dead and therefore assumes his works are in the public domain. Not necessarily; the editor or translator may hold the copyright to that version. Moreover, some rights have been reassigned or purchased by others. One of the best places to begin to find out whether something is in public domain is to go to <http://www.copyright.gov/records/> and click on what you want to search: books, videos, journals, etc.

A *copy* of the work is not the same as *copyright*. Ownership of the physical *item*, such as a book or a CD, is not the same as owning the copyright to use that work however you wish. Under the first sale doctrine, ownership of a physical copy of a copyrighted work like a book permits lending the item, reselling the item, disposing of the item, destroying the item, and so forth, but it does not permit copying the item in its entirety because the transfer of the physical copy does not include transfer of the copyright to the work. Therefore, just because you own a copy of a book, DVD, CD, etc., does not *necessarily* mean you hold the copyright to redistribute material from that copy.

Why Should You Care About Copyright?

Aside from the fact that the work of a university must always include respect for intellectual property and its creators, there are significant legal implications to consider. The University of Texas' "Crash Course in Copyright" points out:

Before you throw up your hands and say, "What's the use," consider your own liability for copyright infringement. Individuals are liable for their own actions. Copyright owners have sued and probably will continue to sue individuals. They will probably sue the University too, but that may not insulate the individual who took the allegedly infringing action from the full force of a lawsuit.

The penalties for infringement are very harsh: the court can award up to \$150,000 for each separate act of willful infringement. Willful infringement means that you knew you were infringing and you did it anyway. Ignorance of the law, though, is no excuse. If you don't know that you are infringing, you still will be liable for damages - only the amount of the award will be affected. Then there are attorneys' fees....

There is one special provision of the law that allows a court to refuse to award any damages at all if it so chooses, even if the copying at issue was not a fair use. It is called *the good faith fair use defense* [17 USC 504(c)(2)]. It only applies if the person who copied material **reasonably** believed that what he or she did was a fair use - as would likely be the case if you followed this Policy! If you qualify for this defense, it makes you a very poor prospect for a lawsuit. On the other hand, if you disregard sound advice about fair use, a court would be free to award the highest level of damages available. This makes someone who ignores policies a handsome target for a lawsuit.

<http://www.utsystem.edu/ogc/intellectualproperty/copypol2.htm>)

How Do You Determine “Fair Use”?

No term in copyright is more contested than “fair use,” and not even Congress seems to understand what is meant by it in all circumstances. ***It is not a license to do whatever you like with copyrighted material for instructional purposes.*** George Mason University’s Copyright Office usefully defines “fair use” as “what you are allowed by law to photocopy -- at the moment of inspiration, when there’s not enough time to seek permission -- commonly referred to as ‘spontaneous fair use’ “ (<http://library.gmu.edu/copyright/faq.html>). Again: **Just because a work is being used in a classroom does not guarantee that it is “fair use.”**

To determine if the material is being used fairly, four questions must be answered. It’s important to remember that it is the **collective** answer to all four questions, **not** just the answer to any individual question, upon which the determination of fair use is based.

- What is the purpose and character of the use?
- What is the nature of the work to be used?
- How much of the work will you use?
- What effect would this use have on the market for the original or for permissions if the use were widespread?

The **purpose and character** of the use is usually defined as being either commercial (for profit) or non-profit; educational use can fall into either category, so “educational use” alone is not enough to satisfy the fair use test. If the material is being used in a “transformative” way—that is, not as a verbatim copy but in a reworking or adaptation, the transformation may help determine fair use, but legally it alone cannot determine it.

The nature of the work also contributes to a fair use determination. If the copyrighted material is factual (technical, scholarly, scientific) rather than interpretative (e.g. literary or artistic), it may pass this test more easily since there are fewer alternate ways to express factual materials.

The amount of the work used in relation to the whole work also must be factored in. Generally, the larger amount of the original work you use, the less likely it is to be fair use; however, the courts have also held that use of even a small amount of the work, called “the heart of the matter,” may violate fair use in certain circumstances.

The effect on the market for the original use must also be determined. If your use would negatively affect the market for the original, it is not likely to be considered “fair use.” (For instance, if you distributed a photocopy of one chapter of a book so that students didn’t have to buy the entire book, it would probably not be fair use because you are undermining the market for the book.)

There is no clear agreement among copyright specialists over what absolutely is or is not fair use. To comply with copyright laws, it’s best always to take a conservative approach. For a clear and intelligent description of these factors, see NC State’s Copyright Tutorial (<http://www.lib.ncsu.edu/scc/tutorial/copyuse/fairuse2.html>) and the University of Texas’ Crash Course in Copyright (<http://www.utsystem.edu/ogc/intellectualproperty/copypol2.htm>).

Are there any generally agreed-upon fair uses for education?

It is generally considered fair use to make a single copy of a journal article from an issue or a chapter or other small portion from an entire work such as a book for personal teaching or research uses. Furthermore, a library may make copies of materials for its patrons under fair use as well as under the conditions set forth in [Section 108 of the copyright act](#). And libraries that qualify for Section 108 protection will not be liable for unsupervised use of reproducing equipment used on the premises if the reproducing equipment displays a notice that the making of a copy is subject to the copyright law.

Section 110(1) of the copyright act allows educators and students to perform or display works in the course of face-to-face teaching activities at a nonprofit educational institution, in a classroom or similar place devoted to instruction. There is no limitation on the types or amounts of a work that can be performed or displayed except that an audiovisual work that is not lawfully made cannot be shown. This section authorizes, for example, displaying a picture, drawing, or photograph; showing an entire movie; acting out or performing a play or opera; and performing musical compositions as well as sound recordings **in the classroom**.

What if the copyrighted material is used repeatedly?

If you use copyrighted material repeatedly in your courses, you fail the “spontaneity” test for fair use, so you need to request permission to use the material in your classroom. You can find a template for a request letter at <http://www.lib.ncsu.edu/scc/tutorial/permission1.html>. You must always have written permission to use a copyrighted work if you are copying an entire work (or more than 2500 words of the original) or using it repeatedly. This use includes placing it on library reserve (but see below).

Alternatively, if the material is accessible in a database to which the library subscribes, you can repeatedly give out the URL to the material rather than the material itself, and let the students download the material. Securing written permission is becoming increasingly hard. While the Copyright Clearinghouse Center (<http://www.copyright.com/>) will take all the guesswork out of using a source (it finds copyright holders, permissions, etc. on all media), it can be very expensive and time-consuming.

What about student work?

The typical student, who has no employment relationship with the university, is the copyright holder to any original works he/she creates. This would generally include papers, tests, emails, theses, dissertations, etc. Keep this in mind before re-using a student's material; such uses are protected by the [Winthrop University Intellectual Property Policy](#).

Generally, you can use a student's work in the class where it was created in any way you and the student wish to—but if you wish to use it in later semesters, you should get a copyright release from the student. You can find a sample form to do so at <http://www.winthrop.edu/english/studentpermission.htm>. You should print it out, fill it out, get it signed, and make sure that you give a copy of the completed form to the student.

Students can also use selections from copyrighted materials in class assignments, so long as they do not further make copies of them or otherwise infringe on copyright. That is, a student can use a copyrighted painting or poem or movie clip in a class assignment but isn't permitted to “rip” illegal copies to watch for his or her own pleasure or to share with friends.

This is an electronic age. In what ways can we distribute copyright material digitally (e.g. by e-mail, on e-reserve, or on the web)?

The TEACH Act requires special care with electronic distribution of material. You must

- Avoid distributing commercial works that are sold or licensed for education (such as textbooks, the CDs that come with textbooks, workbooks or exercise books, etc.). Students should purchase these for the course.
- Avoid using pirated works or works you could reasonably expect to know were not legally made (such as “ripped” MP3s or home-burned videotapes or DVDs of movies, etc.). If the copy doesn’t bear a copyright statement or date, it’s probably best to avoid it altogether.
- Check to make sure that personally purchased copies of material give you the right to use them in classes. If you buy a film or CD from an educational distributor, for instance, the packaging will often tell you that you can use the material in class. On the other hand, a DVD rented from a local video store or even purchased at a local vendor usually **does not come with copyright permission** to show the work, except in your own home for pleasure. (See “Using CDs, VHS Tapes, and DVDs” in the FAQs below.)
- Generally **limit** the distribution of works to an amount and duration comparable to what you would use in a live classroom setting (e.g., if you would only teach two or three chapters, you can’t digitally transmit an author’s entire book; if your class is 50 minutes long, you can’t transmit a three-hour movie).
- **Supervise** the distribution of the digital material by making it an integral part of a class session and making it part of a “systematic mediated instructional activity.” That is, you can’t just e-mail or post an essay on a Web site for background reading; you must actually **use** it in the class.
- **Limit access** to the material to students actually enrolled in the course and make the material available **only for a limited time** (such as the duration of the course).
- **Notify** students that the material may be subject to copyright protections and that they may not violate the legal rights of the copyright holder.

How do we distribute copyrighted material under fair use?

1. Use one of the widely available heuristics to check that you are using the work fairly. Two good examples are the ones provided by the North Carolina State University Library at <http://www.lib.ncsu.edu/scc/legislative/teachkit/checklist.pdf> and the Decision Map provided by the University of Minnesota library at <http://www.lib.umn.edu/copyright/map.phtml>.
2. Distribute the material in a controlled manner. If the library has a copy of the material in one of its databases (e.g. InfoTrac or JSTOR), give students the URL to the article instead of a physical copy and let them download the article in whatever form they prefer. By subscribing to the databases, the library has paid for the copyright to the version of the article that appears in the database, so that counts as fair use. Alternatively, if the material exists somewhere on the web, give students the URL and let them download the materials themselves for their own scholarly use.

Remember that all materials on the Web are copyright protected unless otherwise noted; you may not download freely and ignore fair use. Also, please remember that using material you find on the web (instead of in a protected database) may not be fair use if that

material has been posted in violation of copyright laws. *Caveat emptor*. Likewise, photocopying and distributing materials must also be conducted by these guidelines.

3. If you have time to anticipate the need to distribute material digitally, consider setting up your course in **WebCT**, which limits access to materials to students currently enrolled in the class. Winthrop has this system available and provides training for it, but the university requires that you register your course for WebCT at least a month before the semester begins. This will provide password protection for access to your materials and may help demonstrate your "good faith" effort to protect copyrighted materials. If you are interested in exploring this option, see <http://www.winthrop.edu/webct/> and contact the WebCT administrator at x-2551. If you take this option, remember that the rules for repeated use and fair use still apply. In particular, you cannot use your WebCT account as a substitute "coursepack" for students (see the FAQs below).
4. No matter **how** you use copyrighted material in your classroom, keep a record of what you have used. NC State has a sample record form available at <http://www.lib.ncsu.edu/scc/worksheet.pdf> . Print a copy of this form, use it throughout the semester, and keep it with your records so that you can document your "good faith" attempt to observe copyright laws in your teaching.

Copyright, Digital Materials, and Distance Education

When copyrighted materials are used in distance education, special precautions apply. The following list is to help faculty comply with the Teach Act and Section 110(2) of the US Copyright Act. Please check the 'fair use' section of this document to acquire permissions for copyright material and follow Winthrop's 'on-site' guidelines as well as these for 'on-line' learning.

1. The work being distributed may be a performance of a non-dramatic literary or musical work. Any other performance may be used, including dramatic works and audiovisual works, but only in "reasonable and limited portions." A display may be used in an amount comparable to a live classroom session.
2. Works in any format which is typically purchased by students for their own use can not be distributed primarily for performance or display as part of a digital instructional activity or text material; this covers, for instance, digital materials or workbooks that students normally purchase along with their textbooks.
3. An exception to copyright applies only to performances or displays that are:
 - (1) made by, directed by, or supervised by an instructor as a part of the distance education "class session" offered as a regular part of the course held by a nonprofit educational institution.
 - (2) directly related to and assist in the teaching content of the course..
4. If Winthrop is in possession of material but does not know (or has reason to believe) that the copy of the work to be transmitted was not lawfully made or acquired, permission requests for copyright are required.
5. If materials need to be converted from analog to digital format to be displayed on the internet, and there is no digital version available or digital versions have security measures that prevent copying, then only those portions needed for the course should be converted.

Guidelines and duties of the institution

The University also has responsibilities to ensure that materials distributed digitally as part of distance education are used in accordance with existing copyright laws. Specifically,

1. Online courses approved by the University for credit must be supported by Winthrop, which is a nonprofit educational institution.
2. Winthrop must provide informational materials to faculty, students, and relevant staff members that describe and promote US copyright laws.
3. Winthrop must provide notice to students that materials used in connection with the course may be subject to copyright protection. See below for sample language that might be included on a syllabus to meet this requirement.
4. The transmission of the content must be sent solely to students officially enrolled in the course for which the transmission is intended.

Clarification of fair use policy for distance education

The main concern for distance education is to protect or at least attempt to protect the work being distributed on behalf of the people who hold the copyright of the work. To do so, login and password protection for course materials, discussion groups, and other forms for distribution of information should be in place. Personal websites that carry copyrighted material used for instruction should also be protected. Where possible, online courses should also employ digital rights management (DRM) technologies and use streaming technologies that prevent retention on the receiving computer. You can find sample pages and computer scripts to make this possible at <http://www.winthrop.edu/copyright>.

- All web-based courses set up by the Teaching and Learning Center (TLC) or the Information Technology (IT) department at Winthrop will require username, login, and password to gain access to courses and their related materials. DRM technologies will also be used when possible but the professor must inform the TLC or IT of their use in advance in order for this technology to be deployed.
- Fair use guidelines still apply to distance education materials for non-profit organizations as they do in traditional classrooms.
- Amounts of display material should be comparable to what is typically displayed in the course of a traditional classroom session.
- Materials must be obtained legally with the permission of the copyright holder or the instructor must show an attempt to gain permission.
- Students must be instructed not to distribute the information that is copyright protected. Here is a sample statement that might be placed on a syllabus to show students that material is copyrighted:

“All copyrighted materials for this course shall remain in the possession of the instructor or Winthrop University for distribution to students enrolled in this course. You may not redistribute, sell, or gain personally from these materials under penalty of US copyright law. Copyright of the material is not transferable and may only be used by the student for educational and reference purposes. If you have further questions, please consult the Winthrop Copyright Policy at <http://www.winthrop.edu/copyright>.”

Exceptions for distance learning

The exception to copyright applies only to performances or displays that

- (1) are made by, directed by, or supervised by an instructor as a part of the distance education “class session” offered as a regular part of the course held by a nonprofit

educational institution or governmental body.

(2) are directly related to and assist in teaching the content of the course.

What about Putting Material on Reserve in the Library?

Materials placed on reserve must comply with both federal copyright law and university copyright policy. Any readings not clearly within the scope of the "Fair Use" provisions of 17 U.S.C., [Section 107](#) will not be added to the reserve system without permission of the copyright holder. The Circulation staff will gladly request permission, but please note that the process takes several weeks, and publishers often refuse such requests.

Clear-cut examples of "fair use" include:

- No more than 3 copies of any article or book chapter, used for a **single** semester
- 1 article from a journal or 1 chapter from a book, used for a **single** semester
- Course notes
- Course syllabi

Examples of material requiring permission of copyright holder:

- Any copyrighted material used for more than one semester
- "Consumable" materials--copyrighted tests, solutions, worksheets
- More than one chapter from a book, or more than one article from an issue of a journal
- Articles from multiple sources, collected into an anthology to be used as a text for the course
- Student papers, which do enjoy copyright protection, may constitute academic records, and are covered by Winthrop's [Intellectual Property](#) policy.

Dacus Library has followed the lead of many libraries by making electronic reserves available. This is best done by pointing to the *links* among the many full-text databases to which the library now subscribes. With over 30,000 full-text access journals, faculty should be able to point students to any reading for which Winthrop has already paid access. Databases like *JSTOR* and *Academic Search Premier* provide legally permissible ways to use electronic reserves. Dacus electronic reserves are structured to limit access to students registered in the course for which the items have been placed on reserve and to instructors and staff responsible for the course or the electronic system.

For any other item the library does not own, Dacus may digitize it, provided that library staff follows the same rules that apply to print reserves. This also means Dacus has to remove the item following the end of that class and **must require** written permission for any subsequent use after the first use.

Further, the library abides by the CONFU Guidelines. Although these guidelines are not legally binding, they are the most commonly applied and followed by university libraries and assure legally permissible copyright use. While the guidelines did not come up with a "one best way," four legally permissible approaches were recommended. They appear below. Dacus follows both a) and c):

- (a) individual password controls or verification of a student's registration status; or
- (b) password system for each class; or
- (c) retrieval of works by course number or instructor name, but not by author or title of the work; or
- (d) access limited to workstations that are ordinarily used by, or are accessible only to, enrolled students or appropriate staff or faculty.

Showing Videos/Movies/DVDs and Television Recordings

For educational purposes you may show or utilize any work as long as it relates to the curriculum, regardless of the medium, for face-to-face instruction in the classroom. This includes movies/videos and television recordings. If you plan to use movies/videos, the following guidelines should be observed.

1. The audience must be limited to the students enrolled in the particular course, seminar, or group of courses.
2. There should be an academic link to the showing of a movie/video.
3. The showing of the movie/video should be listed in the course syllabus or seminar outline.
4. Faculty responsible for the course or seminar should retain a record of the showing and the description of the academic activities incorporated around the showing.

Videos, movies, or DVDs purchased by the library may be viewed by groups of students in a library screening room as long as the showing meets the guidelines for face-to-face instruction.

Viewing videos, movies, or DVDs outside the parameters for face-to-face instruction is considered either private or public viewing. Public viewing requires the purchase of a license. The rules apply whether or not admission is charged.

Private viewing is:

- A. A person's private home or residence where the showing is for members of a family and a limited number of guests.

Public viewing is:

- A. A place open to the public where the performance is held or,
- B. A place where a substantial number of people who are not family members or friends is gathered. "Friend" is somewhat loosely defined as "having a social relationship" with another person.

Videos, movies, or DVDs that are rented from video stores, purchased, or checked out of the library are for private home viewing purposes only. **The purchase of a pre-recorded video/movie does not give the owner the right to a public performance of that video/movie whether admission is charged or not. Permission must be obtained from the copyright holder or a public performance license must be purchased.**

To determine who holds the copyright license and specific fees for a particular movie/film, contact one of the vendors listed below for assistance. For additional questions or assistance, please contact the Department of Student Affairs at (803) 323-2248.

Licensing Contacts

<u>Company</u>	<u>Service Provided</u>	<u>Web Site</u>
Criterion Pictures USA	Non-theatrical film licensing	www.criterionpicusa.com
Films For The Humanities	Educational Videos & Multimedia	www.films.com
First Run/Icarus Films	Independent film licensing	www.frif.com
Kino International	Independent film licensing	www.kino.com
Motion Picture Licensing Corp.	Umbrella Licensing	www.mplc.com
Motion Picture, TV & Theater Dir.	Film, TV & Theatrical production dir.	www.mpe.net

New Yorker Films	Independent film licensing	www.newyorkerfilms.com
Swank Motion Pictures	Non-theatrical film licensing	www.swank.com
Villon Film	Independent film licensing	www.villonfilms.com
Wellspring Entertainment	Independent film licensing	www.wellspring.com/movies
Zeitgeist Films	Independent film licensing	www.zeitgeistfilms.com

How Does Copyright Law Affect Students, Student Groups, and Other Organizations on Campus?

[*The Guidelines for Clubs and Organizations at Winthrop University*](#) handbook outlines Winthrop's current policy for how clubs and organizations may use copyrighted materials; officers of these groups receive training on these policies each fall in their orientation sessions. Consult the current issue of the *Guidelines* handbook and consult with the Office of Clubs and Organizations (clubsorgs@winthrop.edu) for specific advice. The handbook can be found on line at <http://www.winthrop.edu/studentaffairs/ClubsOrgs/>.

The Office of Clubs and Organizations handles all dealings with public vendors that license works for public viewing. Please contact that office for a list of the vendors with whom Winthrop currently has a contractual relationship.

Further Resources for the Winthrop Community

If you want to educate yourselves thoroughly about copyright, we recommend the following sites:

- United States Copyright Office Information Site:
<http://www.copyright.gov>
- NC State University Library's Copyright Tutorial:
<http://www.lib.ncsu.edu/scc/tutorial/index.html>
- University of Texas' Crash Course in Copyright with TEACH update:
<http://www.utsystem.edu/ogc/intellectualproperty/cprtindx.htm>
- American Library Association links:
Its copyright portal:
<http://www.ala.org/ala/washoff/WOissues/copyrightb/copyright.htm>

Its resources on the TEACH Act and Distance Education:
<http://www.ala.org/Template.cfm?Section=distanceed&Template=/ContentManagement/ContentDisplay.cfm&ContentID=25939>
- You can ask the ALA specific questions: <http://www.librarycopyright.net/>
- Stanford's Fair Use site: http://fairuse.stanford.edu/web_resources/web_sites.html
- University of Minnesota copyright information and education:
<http://www.lib.umn.edu/copyright/>

- Electronic Frontier Foundation (EFF), a organization that provides updates on current legislation and litigation involving electronic copyright issues:
<http://www.eff.org>

FREQUENTLY ASKED QUESTIONS

Classroom Matters

What's wrong with using course packs?

Course packs for which copyright use permissions have been acquired for all contents are acceptable because paying the fees to obtain those permissions protects the copyright owners' rights. However, course packs for which permissions have **not** been obtained for all contents are probably the most common target for copyright violation prosecutions, since such course packs deprive the copyright owners of rightful earnings from their creations. Individual instructors, libraries, copy stores, and even universities have been successfully prosecuted for violations involving course packs. Therefore, **written copyright permission must be obtained** for all materials in a course pack. Most reputable copy centers and printers will not reproduce course packs without being provided in advance with documentation proving that copyright permission has been obtained because of these cases. Stanford University has a clear explanation of the history and issues involved at http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter7/7-a.html.

Are there limits regarding images pulled off the internet for classroom PowerPoint presentations?

The length of time copyright applies to any work—text, image, sound, whatever—is determined by the date of its creation. See the chart on p. 5 of this document to determine how long a work is under copyright. At the same time, there are some archives of images available on the Internet that are copyright-free; check the stipulations on image use when you consult a particular archive and seek permission to use copyrighted material. Often archives of web “clip art” fall into the copyright-free category, but it is the user's responsibility to check.

Students who are creating presentations for which they are graded are generally exempt from copyright restrictions on materials they embed in work to be graded. However, if they wish to use that material in any other way (for instance, including it in a digital portfolio or placing it on their personal websites), they must abide by relevant copyright restrictions.

Our students take a national licensing exam in order to obtain a license to practice social work. Many organizations offer all-day prep sessions, on-line courses, &/or study manuals for a fee (usually around \$100); most of these indicate that the materials are not to be reproduced without the author's/organization's specific permission or that they are copyrighted. A faculty member/student who has signed up for and paid for one or more of these training/refresher/study events received written materials or CD materials to study; that faculty member/student reproduces 10 pages of study questions from those materials and shares them with a friend or a class of students. What, if any, are the copyright issues?

If the materials described are copyrighted, then they are considered “consumable materials” and the copyright policy applies: the faculty member/student cannot reproduce them for distribution without the copyright holder's permission, even though his/her intentions are educational. The copyright holder still controls the rights to distribute that material and those rights must be respected by members of the Winthrop community.

Are news reports recorded from television governed by the same rules as entertainment programming recorded from television?

Yes. The copyright law makes no distinction between “news” and “entertainment.”

Is there a minimum quantity (e.g., 10 seconds) below which an infringement is not considered to have occurred?

Because of the proportionality clause, a clip so short would probably not be considered infringement, but the law itself does not set any minimum time quantities or proportions.

Library Matters

Is it possible to put CDs or DVDs in the library for students to use? If so, can students check them out or only listen to them in the library.

CDs and DVDs can be placed on reserve and students may use them in or out of the building according to the circulation period set by the faculty member (overnight, 3 hours, etc.). What faculty may *not* do, however, is record selections for students to use (the musical or visual version of a course pack) on a CD or DVD. Rather, if they wish students to listen to 20 selections from 20 different CDs, they have to place all 20 CDs on reserve. The same is true for DVDs. Faculty can place them on reserve but cannot “cut” selections to a “homemade” DVD or video for use.

I have some old (copyrighted) tapes that I would like to place on reserve for students, but I'm afraid they're too fragile to stand up to repeated use. Can the library make copies of them to place on reserve for me?

This is VERY tricky. Typically copying works only if the tapes cannot now be repurchased in another form (either CDs or cassettes). If they are available, let Dacus know and the library will buy them. If they are no longer available, then Dacus can re-record and place the recorded version on reserve—with the attribution and copyright information on the copy. Unfortunately, just because a copy is old, it cannot be re-recorded if it's still available for purchase.

Can I make up a course pack of articles and readings for my students and just put that on reserve for them at the library?

No. You can send a list of what you want on Reserve (it will look like a bibliography) and we will put on reserve those items we have or point to links in our electronic offerings. Course packs without copyright permissions for all contents are forbidden in whatever iteration, be it on reserve or, most especially, on WebCT.

Using CDs, VHS Tapes, and DVDs

Do all movies/films require a public performance license?

No. Some educational movies/films come with an educational license that grants permission for public viewing. You must contact the copyright holder to verify the status and specific guidelines of the specific movie/film titles.

Can I use movies or complete plays or musical compositions in my classes?

As long as you are using clips only, and not extended clips at that, you should be fine. The trouble comes when you show, say, 50 minutes of a 90-minute movie. That could break the proportionality clause of the Copyright Act. However, in some cases covered by [section 110 \(1\) of the Copyright Act](#), it can be argued that it is necessary to show an entire work (for instance, in a literature and film class, where you are comparing the written version of a work with its film representation, or in a music theory class, where you are studying a particular symphony). In all cases, you must put the use of the work on your official syllabus, make it part of face-to-face mediated instruction, and keep records of both the showing and the educational activities that were part of the showing.

If I own a video (DVD or VHS), may I show part or all of that video in my class for educational purposes?

This constitutes a public viewing, so permission is required. Check the sales receipt and packaging for your video. If it does not explicitly give you the permission to show it publicly, then you must seek permission from the copyright holder.

Is video captured from the Internet governed by the same rules as all other sorts of video?

Yes. The Internet is just one more way of distributing copyrighted material. If the material is copyrighted, it doesn't matter where you acquire it. The laws protecting the copyright on that material still hold.

Can I show video streaming from the Internet during class?

If the material is currently publicly available without license on the Internet, you can show that streaming video in your class. If the video is on a protected site (for instance, you need a password to access it), it would be best to seek permission before streaming it.

My student organization wants to show a movie rented from a video store in a classroom on campus at our next meeting. Does this require a public performance license?

No, as long as **only** members of the organization are present for the viewing and members are not charged a fee.

My student organization wants to advertise the showing of a movie and invite the campus community to attend along with the members of the organization. Does this require a public performance license?

Yes, because you are inviting non-members which makes it a public viewing and requires a license. The fee for a public performance license runs on average \$300 - \$650. Whether or not you charge admission to the movie makes no difference.

I have purchased a DVD of a PBS TV broadcast. May I show it on campus to a group of students for educational purposes, i.e., a residence hall academic success community event, without getting permission from the copyright holder?

This is still considered a public performance. Unless the purchase comes with a license for public viewing (which should be indicated on the sales slip or the DVD packaging), you must get permission from the copyright holder before showing it to your group.

Distance Learning

Can't I just use my WebCT site to post materials for students instead of going to all the fuss of clearing copyright?

No. That's the source of many, many copyright violation prosecutions. Such "electronic course packs" are a violation of fair use. Even though the site is password-protected, you are still depriving the copyright owners of the earnings from their creations by not requiring students to purchase the works. You *may* provide links to materials on your WebCT site by providing URLs to databases in the library or to material that you find on the web; however, remember that not all material on the web is posted with copyright permission, so *caveat emptor*.

What if I want to include found items from the Internet?

It is better to make a link to external files that are connected to your courses than to embed the document into your own site or online course. Send an email to the person or organization that produced the site to inform them of the link and request permission.

What if I want to digitize analog or print images?

You must have permission from the creator of the image or the holder of the copyright except in the cases of using imagery for the purposes of examples, discussion, or teaching in the classroom.

What if I don't have a username and password page?

If you have created your own website for a class that has copyright material on it and do not have a username and password page, you need to create one. There are many websites that can help

you set up and secure the information on your site. Consult Information Technology in 15 Tillman for help.

How do I use Digital Rights Management technology to protect content?

This is for advanced web designers, webmasters, or computer technicians who can create content that has time restrictions on a user's computer. For example, web streaming allows content to be loaded onto a computer, played, and then 'dumped' from the computer once it has finished playing. Again, consult with Information Technology if you are interested using such technology.

What does my Distance Education syllabus and/or site have to include to educate students about copyright?

Here is a sample statement that might be placed on a syllabus to show students that material is copyrighted:

"All copyrighted materials for this course shall remain in the possession of the instructor or Winthrop University for distribution to students enrolled in this course. You may not redistribute, sell, or gain personally from these materials under penalty of US copyright law. Copyright of the material is not transferable and may only be used by the student for educational and reference purposes. If you have further questions, please consult the Winthrop Copyright Policy at <http://www.winthrop.edu/copyright>."