

TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

HSC OP: 57.02, Guidelines for the Educational Use of Copyrighted Works

PURPOSE: The purpose of this Health Sciences Center Operating Policy and Procedure (HSC OP) is to ensure understanding and a standardized approach regarding the handling of materials controlled by a copyright.

REVIEW: This HSC OP will be reviewed by May 1 of every even-numbered year (ENY) by the Director of Libraries and the Office of General Counsel, with recommendations for revision forwarded to the Associate Provost for Academic Affairs by June 1.

POLICY:

It is the policy of the Texas Tech University Health Sciences Center (TTUHSC) to adhere to the requirements of the United States Copyright Law of 1976, as amended, (Title 17, United States Code, hereinafter, the "Copyright Act"), including those requirements for journals, books, audio recordings, audiovisuals, pictures, and software. This policy/procedure applies only to copyrighted materials. Uncopyrighted materials may therefore be copied without restriction. Works authored by the United States

March 1, 1989 do not require a copyright notice, and should therefore be presumed to be under copyright protection. States and their instrumentalities are liable for violations of the Copyright Act, and all remedies for copyright infringement apply to states, as well as to private individuals (PL 101-553). TTUHSC faculty, staff, and students are reminded that the institution does not condone copyright infringement, and that individuals who violate copyright are not protected by the institution. Files belonging to the institution or any individual and containing copyrighted material or records of such copying may be subject to subpoena.

It is also the policy of TTUHSC to invoke the doctrine of "Fair Use" as defined by Section 107 of the Copyright Act in order to enable legal copying of copyrighted materials by faculty, staff, and students, without seeking the permission of a copyright holder, and without the payment of royalty fees to a copyright holder. "Fair Use" for educational purposes may not be automatically invoked simply on the basis of copying of copyrighted material for educational purposes, or on the basis of such copying being made by a non-profit organization. Each claim of "Fair Use" must instead be weighed against four criteria:

1. The purpose and character of the use;
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.

Since copying of copyrighted materials may take different forms, depending upon the purpose for such copying, these guidelines are set forth according to the following classification:

1. Teacher and classroom copying;
2. Music and audiovisual copying;
3. Individual (and student) copying;
4. Copy Center copying;
5. Library copying;
6. Copying for broadcast; and,
7. Computer-related copying.

All faculty, staff, and students of TTUHSC are required to adhere to the following guidelines.

1. Teacher and Classroom Copying of Printed Material.

a. Single Copying. A single copy may be made by a teacher or staff member (or for a teacher or staff member at his/her individual request) of any of the following:

- (1) A chapter from a book;
- (2) An article from a periodical, or newspaper;
- (3) A short story, short essay or short poem, whether or not from a collective work, or
- (4) A chart, graph, diagram, drawing, cartoon or picture from a book, period1.1.1 (i (gr)-6.4 (ap (t

(iv) Special Works:

b.

distance learning class, some utilizations may be made under fair use. No more than ten percent (10%) of a copyrighted work of music may be used, but may not be repeated for the course in the next semester, unless permissions have been obtained from the copyright holder. Under provisions of Section 110 of the Copyright Act, a lawfully obtained copyrighted film or videocassette, not labeled "Home Use Only", may be aired to a closed circuit interactive distance learning class, provided that such airing is within the scope of the educational intent of the course. No copy of a closed circuit live interactive distance learning class containing such a film or videocassette may be made without first securing the permission of the copyright holder.

(5) In any closed circuit live interactive distance learning class session which utilizes copyrighted material, it is the responsibility of the teacher/instructor to assure that such utilization is lawful.

b. Closed Circuit Live Medical Consultations and Peer Conferences. The utilization of copyrighted material in conjunction with the broadcast of live medical consultations or peer conferences is subject to the same provisions that govern closed circuit distance learning class situations, as described in 6.a. above.

(1) Closed circuit live peer conferences or medical consultations may make use of print or graphic (but not music nor audiovisual) copies (one copy per conference attendee) of copyrighted material. Each copy provided must bear the following copyright statement:

"This material may be protected by copyright law (Title 17, U.S. Code)."

(2) Assurance of copyright compliance is the responsibility of the moderator of such closed circuit live consultations or conferences.

(3) If copies are to be made of such live consultations and peer conferences which include copyrighted material, permissions must be obtained from the copyright holder(s).

c. Broadcasts to the External Environment. Broadcasts to the external environment (non-TTUHSC or non-TTUHSC related) which make use of satellite or other broadcasting technology may fall into two general categories: not-for-profit educational, and for-profit commercial (which might be educational).

(1) In the case of all external environment ~~to~~ ~~for~~ ~~profit~~ ~~educational~~, regardless of educational intent, all uses of copyrighted material

broadcasts without the permission of the copyright holder or his/her/its royalty and permissions agent.

7. Computer -Related Copying. Computer-related copying may take many forms: copying of software; printing of items from computerized files; and downloading of computerized files or items from computerized files to hard disk or to diskette. Many items within computerized files are copyrighted, or are subject to licensed control. Users of computers must exercise care in the use of such materials. The following guidelines relate only to the copying of copyrighted or licensed materials.

a. Copying of Software. Software operating systems and application programs should be considered copyrighted material, unless they are termed as “free-ware” or public domain by their producers and manufacturers. In most cases, a software program carries a license to which the purchaser agrees upon purchase or at the time of the software’s installation. It is customary for software producers to permit the creation of one archival or “back-up” copy for each installation permitted by the license. A license may be for one installation or for multiple installations of a specific software program. Copies of licenses for software programs which are purchased by TTUHSC departments or individuals shall be kept on file within the department or by the individual so long as the software is in use. Certain basic utility and application programs are made available to TTUHSC individuals and departments as “site license” programs. Such site licensed programs will generally have only one license for the campus or for the institution as a whole. Licenses for such programs are kept on file centrally within the campus or institution.

(1) Copying, adapting, and electronic transmission of computer software is strictly forbidden by TTUHSC personnel, except:

(a) In strict compliance with Public Law 96-517, Section 10(b), which, in amending Section 117 of Title 17 (U.S. Code) to allow for the making of computer software back-up copies, states (in part) “...it is not an infringement for the owner (purchaser) of a copy of a computer program to make or authorize the making of another copy or adaptation of a computer program provided:

(i) “That such a new copy or adaptation is created as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner, or

(ii) “That such a new copy and adaptation is for archival purposes only and that all archival copies are destroyed in the event that continued possession of the computer program should cease to be rightful.”

(b) Where appropriate written consent from the copyright holder is obtained.

(c) Where the software is in the public domain or is “free-ware” and that can be verified.

(2) Illegal copies of software may not be used on TTUHSC computers.

(3) Software (whether on tape or CD-ROM) may not be mounted so as to permit multiple use or multiple site use unless such permissions are granted by the software license itself, or granted by the copyright holder or his/her/its royalty or permissions agent.

b. Copying of Computerized Files and Their Contents.

(1) Copies (to paper or downloaded to disk) may be legally made of computerized files and their contents, provided that the program license does not forbid such copying. Generally, a computerized file will carry an on-screen warning if copying

is not permitted.

- (2) Care must be exercised in the copying of material found in other home pages on the Internet. Some home pages may contain copyrighted materials, but may