

Berry College

Copyright Policy

Defining Copyright

Copyright grants authors and creators exclusive rights that protect their work, including writings, music, and images. These protections include the right to control who can reproduce, distribute, prepare derivative works, perform, and display the work publicly. Copyright also ensures that creators receive recognition and potential financial benefits for their original works and contributions. It is a matter of legal and ethical responsibility to respect these rights.

Appropriate Use and Fair Use

“Fair use” is a principle of copyright law that allows for limited use of copyrighted materials for educational purposes without the permission of the author/creator. Under this exception, copyrighted works can be used in criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, and/or research.

The following four factors should be considered when determining “fair use”:

- **The purpose and character of the use:** How is the source being used? Is it for commercial purposes (are you making money off it) or is it for nonprofit, educational purposes? Courts may also consider whether the use can be considered "transformative," adding something new to the work with a different purpose or character.
- **The nature of the copyrighted work:** Is the work more creative or factual? Works that are factual are generally more likely to qualify for fair use, whereas creative works more often require permission to avoid copyright infringement.
- **The amount and substantiality of the portion used:** What percentage of the entire work is being used? Is the portion used considered the “heart of the work?” Using a smaller portion is more likely to be considered fair use.
- **The effect upon the potential market for or value of the copyrighted work:** This factor is often considered to be the most critical. Uses that supersede the intended use of the original work within its market are less likely to be considered fair use. If there is a way to purchase permission to use a work, unpaid use may weigh against fair use.

Educational use does not automatically qualify as fair use as all four factors must be

weighed together. For more detailed guidance on applying these principles to specific types of sources, including exceptions, please refer to Memorial Library's Copyright Guide [<https://libguides.berry.edu/copyright>]. Generally, copying should be limited to only what is necessary for the educational purpose and should not negatively impact the market for the original work.

Requesting Permission

When your intended use of copyrighted material goes beyond what is considered fair use, you must obtain permission from the copyright holder. To request permission, you should:

- Identify the title, author, edition, and copyright date of the work.
- Clearly specify the exact pages, chapters, images, or other portions you wish to use.
- State the number of copies you intend to make and the specific purpose of your use, including the course name and number if applicable.
- Provide your full name and contact information, including your affiliation with the institution.

Common ways to seek permission include contacting the publisher's permissions desk or utilizing the Copyright Clearance Center (CCC) (www.copyright.com). Be sure to request permission well in advance (recommendation is six weeks) of when you need the material, as the process can take time. If you do not receive a response to your request, you cannot assume that permission has been granted.

Inappropriate Use

Examples of activities that generally constitute inappropriate use and are likely to be copyright infringement include:

- Using copyrighted materials for commercial purposes, promotional purposes or personal profit without obtaining prior written authorization.
- Providing copyrighted materials publicly online and without access restrictions in a manner that could harm the market for the original work.
- Using entire copyrighted works or substantial portions when a smaller portion would suffice for educational purposes.
- Violating the terms of license agreements for databases, electronic periodicals, software or applications.
- Creating, replacing, or substituting for anthologies, compilations, or collective works through unauthorized copying.

- Making copies of copyrighted materials for which students are charged beyond the actual cost of photocopying.
- Making unauthorized copies of "consumable" works such as workbooks, exercises, standardized tests, and answer sheets.
- Copying materials and media as a substitute for the purchase of books, publisher reprints, periodicals, music, video, images and graphic design.
- Digitizing, downloading, or screen capturing copyrighted music, audio, video, images, and graphic design elements for use within creative works and communications that are published, posted or distributed.

Penalties

Violations of copyright law can have serious legal and institutional consequences. Copyright holders can pursue legal action for infringement, which may result in significant monetary damages. Statutory damages can be up to \$30,000 per act of infringement for negligent or unintentional infringement and increased to as high as \$150,000 per act if the infringement is found to be willful. The infringing party may also be held responsible for the copyright holder's attorney's fees.

In addition to legal penalties, Berry College also has policies regarding copyright compliance within its Acceptable Use Policy. Failure to comply with this Copyright Policy may result in sanctions including, but are not limited to, written warnings, loss of access, rights to information technology resources, suspension of privileges, and for faculty and staff, potential suspension or termination of employment. **It is the responsibility of all members of the Berry College community to understand and adhere to copyright law and this policy.**

If you have any doubts about whether a particular use of copyrighted material is permissible, please seek guidance from Memorial Library or Danny Price, General Counsel.

Copyright Infringement Notification

Agent to Receive Notification of Claimed Infringement: This is to notify copyright owners that the agent to receive infringement statutory notices under the Digital Millennium Copyright Act is Dan Boyd, Director of Information Security.

A copyright owner needing to send such notice to Berry College should submit the notice in writing to:

Dan Boyd, Berry College

P.O. Box 495035
Mount Berry, GA 30149

E-mail: infosec@berry.edu
Phone: 706-236-1750

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