



Policy: 01-70-00

Use of United States Copyright Act

OFFICE OF RECORD: President's office

ISSUED BY: President

APPROVED BY: *Douglas Knowlton, Pres*

EFFECTIVE DATE: 5/12/87 (Revised 12/16/10)

Policy

This policy affirms the College's commitment to comply with United States law pertaining to copyright as expressed in Article I, Section 8 of the U.S. Constitution and codified in various laws.

Scope

Definition: Copyright provides the creators of original works of authorship with a set of limited exclusive rights, including the right to copy, distribute, and perform their works. The law balances the private interests of copyright owners with the public interest and is intended, in the words of the Constitution, "to promote the Progress of Science and useful Arts, by securing for a limited Time to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

Copyright law gives copyright owners the exclusive rights to: reproduce a work; prepare derivative works based on the original; distribute copies to the public; perform the work publicly; and display the work publicly.

Automatic copyright: When a work is created it receives instant and automatic copyright protection. The law today does not require placing a notice of copyright on the work or registering the work with the U.S. Copyright Office as it did in the past. The law provides some important benefits if you do use the notice or register the work, but you are the copyright owner even without these formalities.

Limitations to copyright: Limitations to the exclusive rights are listed in Sections 107 through 122 of chapter 1 of the U.S. Copyright Act. These exceptions are integral to the balance of exclusive rights and productive, socially beneficial new and fair uses of works. One of the exceptions to a copyright holder's exclusive rights is the right to make a fair use of a copyrighted work.

There are several other principles and laws bearing upon particular uses of original works.

- The *first sale* doctrine indicates that the owner of a physical copy of a work has particular rights, including the right to loan that physical copy to others.
- The 1998 *Digital Millennium Copyright Act* (DMCA) places additional restrictions on the copying of resources in electronic format.
- The 2002 *Technology, Education, and Copyright Harmonization (TEACH) Act* restores some rights for the distribution of materials in electronic format for online education.
- The principle of *work for hire* indicates that some copyrightable work belongs to the organization that contracted the work, rather than to the author of the work.

Procedures

Dakota State University facilitates compliance with copyright law and, where appropriate, the exercise in good faith of full fair use rights by faculty and staff in teaching, research, and service activities. Specifically, Dakota State University

- informs and educates students, faculty, and staff about copyright law, including the limited exclusive rights of copyright holders as set forth in 17 U.S.C. § 106, the application of the four fair use factors in 17 U.S.C. § 107, and other copyright exceptions;
- develops and/or makes available tools and resources for faculty and staff to assist in determining copyright status and ownership and determining whether use of a work in a specific situation would be a fair use and, therefore, not an infringement under copyright law.

Faculty, students, and staff should consider the following questions when using resources:

- Is the material protected under copyright?
- Does use of the material fall under fair use or another copyright exception?
- Must you get permission from the copyright holder?

Tools and information to answer these questions are provided by the Karl E. Mundt Library and are made available through a "copyright" link on the Library's website. <http://www.departments.dsu.edu/library/copyright.aspx>

Disclaimer: The above is intended to assist faculty, students, and staff. It is not intended to provide legal advice. U.S. copyright law is complex. For application to specific cases, a lawyer's advice may be needed.

Additional DSU and BOR policies referencing copyright include:

- BOR Policy [7:1](#)
- BOR Intellectual Property Policy [4:34](#)
- DSU Policy on Computing Privileges [03-61-00](#)