Hamilton College Copyright Policy

Purpose

This policy describes Hamilton College's interpretation of Copyright Law as it applies to the use of materials in connection with the academic program.

Scope

This policy applies to all Hamilton College employees and students.

Policy Revision History

Last revised, March 2015.

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Introduction to Copyright

Why Care About Copyright?

This is the Hamilton College interpretation of the Copyright Law, Title 17, United States Code, 1976. The copyright law of the United States governs the making of photocopies or other reproductions of copyrighted material. Our policies are based on careful review of the law itself, the Fair Use guidelines of 1997, the TEACH Act of 2002, the Digital Millennium Copyright Act (DMCA) of 1998, and the DMCA exemptions of 2006.

This is by no means the only interpretation. It is, however, what we believe is most ethical and appropriate for this campus. It is our hope that this will help you understand and adhere to the provisions of federal copyright law.

Compliance with the federal copyright law and with this policy is the responsibility of every member...
of the Hamilton College community. Each of us should take a personal interest in becoming informed about how copyright law affects our work at Hamilton College.

Copyright law is complicated and its interpretation is sometimes controversial. This guide has been prepared in an effort to help us all better understand what is allowable by law, and why some services that are technically possible may nevertheless be restricted. We will always remain open to receiving any new information on or interpretation of copyright law.

Your support and cooperation is greatly appreciated. If you have questions or concerns about this policy, please contact the Digital Millenium Copyright Officer, Hamilton College Library & Information Technology Services.

General Information About Copyright

Copyright grants to the author or originator the sole and exclusive privilege of multiplying copies of literary or artistic productions and publishing and selling them. Copyright protection exists for original works fixed in any tangible medium of expression, including:

- literary works;
- musical works, including any accompanying words;
- dramatic works, including any accompanying music;
- pantomimes and choreographic work;
- pictorial, graphic, and sculpture work;
- motion pictures and other audiovisual works;
- sound recordings.

Penalties for Infringement

Substantial penalties can be imposed for infringement of a copyright. An injunction to stop the infringement is most likely to be the first action. Payment of actual damages for financial loss suffered by the copyright owner may be required. Statutory damages, for which no actual damages need be proved, may be assessed.

An exception to the statutory damages is made in the case of teachers, provided the teacher believed and had reasonable grounds to believe that it was fair use. In this case the teacher may be found guilty but the damages do not have to be paid. This gives the teachers some special consideration under the law, but it also requires that they be thoroughly familiar with what might be considered reasonable fair use practices.

Fair Use Guidelines for Educators

Many provisions of the 1976 copyright law affect educational uses of copyrighted materials but the most generally applicable is Section 107 - Limitations on Exclusive Rights: Fair Use. Under the law, it is fair use to reproduce copyrighted materials for purposes of criticism, comment, news reporting, teaching, scholarship, or research. Four criteria will be applied in judging whether or not there has been an infringement:

- The **purpose** and character of the use.
- The **nature** of the copyrighted work.
The amount and substantiality of the portion being used.

The effect on the potential market for or value of the work.

The four criteria for determining fair use listed above are very general. To aid in the interpretation of Fair Use criteria, interested groups of publishers and users have agreed on more specific guidelines, including:

- Guidelines and fair use in photocopying of copyrighted print materials for educational purposes.
- Guidelines and fair use of copyrighted musical works in education.
- Guidelines for photocopying of interlibrary loans by libraries and libraries.

Representatives of copyright owners and educators, during the CONFU process in 1996-97, agreed that the general principles of fair use can also apply to multimedia items. The guidelines they developed are widely, but not universally, accepted and used in interpreting the provisions of copyright law. The guidelines are not written into the law, so fair use is still a shadowy territory and subject to varying interpretations.

Hamilton College believes that the general principles developed by the CONFU process are appropriate and uses them as the basis of its Copyright Policy. [See: Fair Use Guidelines for Educational Multimedia: http://www.utsystem.edu/OGC/IntellectualProperty/ccmcguid.htm]

It is important to keep in mind that, in general, fair use does not give permission for copying works in their entirety. Limited portions may be incorporated into a new production by a student for a class project or by an instructor for purposes of criticism, comment, news reporting, teaching, scholarship, or research. In order to copy an entire work, permission must be obtained from the copyright holder. See Part 8 of this document.

Digital media, including DVDs, are a special case, governed by the Digital Millennium Copyright Act (DMCA) of 1998, which introduced new restrictions on unauthorized copying. Since the 1998 Act, several exemptions to the DMCA restrictions have been approved. The exemptions of November 2006 include a provision similar to fair use, to allow film studies professors to circumvent the encryption of digital media in order to make compilations of portions of those works for educational use in the classroom.

Photocopying for Classroom Use and Library Reserves

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or other reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use", that user may be liable for copyright infringement.

Copying for Classroom Uses

Primary and secondary school educators have, with publishers, developed guidelines which allow a teacher to distribute photocopied materials to students in a class, without the publisher's prior permission, upon compliance with these and other conditions:

- The distribution of the same photocopied materials does not occur every semester.
- Only one copy is distributed for each student, which must become the student's property.
The materials include a copyright notice on the first page of the portion of material photocopied. The students are not assessed any fee beyond the actual cost of the photocopying.

Copying for Library Reserve Uses

At the request of a faculty member, a library may photocopy and place on reserve excerpts from copyrighted works in its collection in accordance with the guidelines above, similar to those governing formal classroom distribution for face-to-face teaching discussed above. Hamilton College believes that these guidelines apply to the library reserve shelf to the extent it functions as an extension of classroom readings or reflects an individual student's right to photocopy for his personal scholastic use under the doctrine of fair use.

If the request calls for only one copy to be placed on reserve, the library may photocopy an entire article, an entire chapter from a book, or an entire poem. Requests for multiple copies on reserve should meet the following guidelines:

- The amount of material should be reasonable in relation to the total amount of material assigned for one term of a course, its subject matter and level.
- The number of copies should be reasonable in light of the number of students enrolled, the difficulty and timing of assignments, and the number of other courses that may assign the same material.
- The material should contain a notice of copyright.
- The effect of photocopying the material should not be detrimental to the market for the work.
  In general, the library should own at least one copy of the work.

Electronic Reserves

These guidelines apply to Electronic Reserves as well as paper copies. Copyright notices are applied to the documents before they are scanned for use on the Web. Electronic Reserves are available for use off campus by members of the Hamilton College Community only, and their use is protected by copyright. Library staff can only scan documents for Electronic Reserves. Please visit the Information Commons Desk to learn how to scan documents and create PDF files.

Displaying Media on Campus

Public Performance vs. Classroom Showing

If you wish to schedule a film showing on campus, please be aware of this information about public performance licensing.

- Before you do any advertising of your film (e-mail, posters, flyers, etc.), you need to make sure you are not about to violate any copyright restrictions.
- Classroom showings - Most of the movies in our library, all movies in your personal collection, and movies from streaming services such as Netflix and Amazon are designated as home-use recordings. There is an educational exemption of Copyright Law that allows a faculty member to show these movies to their class. However, this means only the students
who are registered to take the course for credit may attend.

- Public showings - If the movie is being shown outside of your dorm room and you are inviting people to watch via email, posters or social media, it is a public screening. You are not excused from the "public" designation just because it is an "educational" film, or you are advertising only on campus, or you are not charging for admission. More information on Public Performance Licensing.

Showing Library Materials

- Films, videos and DVDs in Burke Library (and a small collection of music titles in the Music Library) are generally purchased for classroom use only. When the library purchases these items they typically come with a home use license. There is an educational exemption that also allows for screenings in a class with only viewers that are registered in the course for credit.
- If a movie will be open to the public, listed on the Events Calendar, advertised using email, posters or social media, if members of the campus community are invited to view the movie, or if the event is sponsored by a student organization the screening of the movie is considered a public performance. In these cases the host of the event is required to purchase a Public Performance License (PPL).
- For more information, consult the public performance licensing page.

Faculty Owned Media

- Movies purchased by you or by your department may be used by you in your classroom, but cannot be used for an open showing to students outside your class and cannot be advertised on campus.
- Videos you have taped off-air at your home will not be shown in the classroom by an AV Services projectionist. AV Services can make an off-air tape of the broadcast at your request, or it may be possible to rent or purchase a program through appropriate channels.

Use of Media by Lecturers

If a lecturer or performer brings multimedia materials (film, video, DVD, CD) for use in their program, it is expected that the individual is the copyright owner of the material or has obtained permission or licensing to display the items.

Video Recording of Campus Events

Department or student productions can be videotaped if the following criteria are met:

- If the presentation is an original work by a faculty member or student, and they sign a video recording permission form provided by AV Services. The forms are available online. Form for Individuals/ Form for Groups.
- Student productions will only be recorded when the project is in fulfillment of an academic
requirement and a faculty member requests the recording.

- If the presentation is a copyrighted script and written permission is obtained in advance from
  the publisher or owner of the copyright. Some works which one might believe to be in the
  public domain may still carry a copyright for translation, stage direction or other
  modifications, and written permission is still necessary.
- If the presentation involves copyrighted music (such as a dance concert) and written
  permission is obtained from the music publisher or owner of the copyright.

For information on obtaining permission from a publisher or copyright owner in order to make a
video recording of a performance of a copyrighted script or music, see Part 8 of this document,
or a page on the University of Texas website, at http://www.utsystem.edu/ogc/intellectualproperty/permissn.htm.

Lectures and Performances

Lectures or performances presented by guests to the campus will be video recorded if the guest signs
a permission form, provided by AV Services, prior to the lecture or performance taking place.
Permission must also be obtained from members of the campus community (employees, students,
alumni, trustees). A printable form is available: Form for Individuals / Form for Groups. By signing
this permission form, speakers and performers are also certifying that any audiovisual materials
(movie, PowerPoint, web page) are their own work or that they have obtained proper copyright
clearances for displaying them.

Sporting Events

According to the rules of NESCAC and other athletic leagues in which Hamilton teams compete,
there are no restrictions placed on recording varsity sporting events. A request must come from a
member of the coaching staff.

Using Multimedia Materials

The use of multimedia materials is governed by the Fair Use Guidelines.

Existing Video Footage

Faculty and students are permitted to copy portions of video materials for the purpose of
incorporating the clips into a new production for educational use in the classroom, without obtaining
permission from the copyright holder.

The borrowed material may not constitute more than 10% of the original, or 3 minutes, whichever is
less, nor may it comprise the majority of the finished product. The opening screen of the project and
any accompanying print material must include a notice that certain materials have been used under
the fair use exemption of the U.S. Copyright Law.

In 1998, the Digital Millennium Copyright Act (DMCA) of 1998 dealt specifically with digital
media, including DVDs, and introduced new restrictions on copying. Section 1201 of the DMCA
prohibits the circumvention of encryption on all digital media. It is a violation of the DMCA, for
example, to make a digital copy of an encrypted DVD, because doing so would require breaking the copy protection. In November 2006, several exemptions to the DMCA restrictions were approved. One of the new exemptions is for multimedia works included in the educational library of a college or university's film or media studies department, when circumvention is accomplished for the purpose of making compilations of portions of those works for educational use in the classroom by media studies or film professors.

Guidelines for Using Multimedia Sources

Existing multimedia (music, lyrics, music videos, motion media, photographs, and illustrations) can be incorporated into a student or faculty multimedia project. The amount of the copyrighted work that a student may use in his/her educational multimedia project is restricted by specific portion limitations. In particular, the portion limitations relate to the amount of copyrighted work that can reasonably be used in educational multimedia projects regardless of the original medium from which the copyrighted works are taken. ("In the aggregate" means the total amount of copyrighted material from a single copyrighted work that is permitted to be used in an educational multimedia project without permission under the Guidelines.)

Only two copies of the student educational multimedia project may be made, for reserve and preservation purposes.

Attribution and acknowledgement are required. Students must credit the sources of the copyrighted works, display copyright notice and ownership information, and include notice of use restrictions (as specifically detailed in Section 6.2 and 6.3 of the Fair Use Guidelines).

Copyrighted Music, Lyrics, and Music Videos

You can use up to 10%, but in no event more than 30 seconds. If the material you want is in compliance with the Fair Use limitations (less than 10%), and the Music Library Coordinator grants permission, an audiocassette or CD copy can be made for you by either the Music Library or Audiovisual Services.

The Multimedia Presentation Center/ Information Commons has a supply of licensed prerecorded music that can be used in video production. Other music can be used only if a "video synchronization license" is purchased from the music publisher or owner of the copyright.

Accordingly, any copyrighted film used would be covered by the motion media film limitation, any graphical illustration used would be covered by the photograph or illustration limitations, and any musical work used would be covered by the music, lyrics, and music video limitation.

Motion Media Work

You can use up to 10% or 3 minutes, whichever is less.

Photographs and Illustrations

You can use no more than 5 images by an artist or photographer. For photographs or illustrations from a published collective work, you can use no more than 10% or 15 images, whichever is less.
Copying CDs, DVDs, Video and Audio Tapes

Hamilton College reserves the right to refuse to accept a copying request if in its judgment, fulfillment of this order would involve violation of the copyright law. No media carrying a copyright will be duplicated without written consent from the publisher or copyright owner.

The copyrights on media from other countries are valid in the U.S. and are honored by Hamilton College. We do not copy foreign media into the U.S. formats just for the convenience of the user. Many classroom spaces on campus have equipment for showing foreign DVDs. To find a suitable room please consult the [Events Calendar](#) or contact AVS at x4120.

Digital Information Systems

Copyright Infringement on Hamilton's Digital Information Systems

In compliance with the [Digital Millennium Copyright Act's](#) safe harbor provisions relating to educational institutions, Hamilton encourages the users of its network to educate themselves on the principles of copyright and to respect the rights of copyright owned by others.

Notification and Removal Procedures - Introduction

Individuals using computers and networks ("Digital Information Systems") at Hamilton College (the "College") are responsible for complying with copyright laws and the College's policies and procedures regarding use of the Digital Information Systems. The College reserves the rights to deny, limit, revoke or extend computing privileges and access to the Digital Information Systems in its discretion. In addition, alleged violations of this procedure, the College's policies regarding use of the Digital Information Systems, or other policies of the College in the course of using the Digital Information Systems may result in an immediate loss of computing privileges and may result in the referral of the matter to the College's judicial system or other appropriate authority.

The procedures outlined below will apply when the College receives notification of an alleged copyright infringement. For purposes of these procedures, an e-mail message shall be considered a written notice or request.

Notification of Infringement

Copyright holders who believe their copyrighted material has been infringed by an account holder must notify the [Digital Millenium Copyright Officer](#), (the "Designated Agent") of the allegedly infringing action or material in writing. The notification must 1) identify the copyrighted material being infringed in sufficient detail to permit the College to locate the allegedly infringing material on the College's Digital Information Systems, 2) state the basis for the claim of possible infringement, and 3) state the basis for the copyright holder's copyright in the work (e.g., author, owner, assignee).

1. The Designated Agent will notify the account holder who appears to have posted the allegedly infringing material, and will investigate the complaint promptly.
2. If, after conducting an investigation, the Designated Agent determines that the allegedly infringing material appears to infringe the copyright of the copyright holder, the Designated
Agent will follow the procedures for Removal of Infringing Material set forth below.

Removal of Infringing Material

1. In the event that the allegedly infringing material is being used for an active class at the College, the Designated Agent will attempt to work out an arrangement with the copyright holder for use of the allegedly infringing material by the account holder until the end of the current semester. Failing a satisfactory arrangement, the Designated Agent will conduct an investigation of and take action as set forth below regarding any allegedly infringing material.

2. If, after the Designated Agent's investigation, the Designated Agent determines that the allegedly infringing material appears not to infringe the copyright of the copyright holder, the Designated Agent will notify the copyright holder and the account holder of the determination. If the copyright holder disagrees with the determination of the Designated Agent, the copyright holder may request in writing that the College ask its attorneys to render an opinion as to whether the allegedly infringing material constitutes copyright infringement pursuant to paragraph 11 below.

3. If, after the Designated Agent's investigation, the Designated Agent determines that the allegedly infringing material appears to infringe the copyright of the copyright holder, the Designated Agent will notify the Director, Network and Telecommunication Services (NTS), the copyright holder and the account holder whose account was used to post the allegedly infringing material.

4. Upon receipt of such notification from the Designated Agent, the Director, Network and Telecommunications Services (NTS), will direct the appropriate ITS staff member to remove, or block access to the allegedly infringing material.

5. Upon receipt of notification from the Designated Agent that the allegedly infringing material appears to infringe the copyright of the copyright holder and is being blocked or removed from Hamilton's Digital Information Systems, the account holder may request that the Designated Representative restore the removed or blocked material based on the account holder's belief that the allegedly infringing material is not infringing. Such request must be in writing and include a detailed statement of the basis for the account holder's belief that the allegedly infringing material is not infringing, as well as a request that the removed or blocked material be restored.

6. If the Designated Agent receives such request from the account holder, the Designated Agent will provide a copy of the request to the copyright holder.

7. If, within 10 days after a copy of the account holder's request is sent to the copyright holder by the Designated Agent, the Designated Agent has not received a written request from the copyright holder to continue the blocking or removal of the allegedly infringing material, the Designated Agent will notify the Director, Network and Telecommunications Services (NTS), to restore the material. The Director, Network and Telecommunications Services (NTS), will restore the allegedly infringing material within four days after receipt of such notification.

8. If the Designated Agent receives within 10 days a written request from the copyright holder to continue the blocking or removal of the allegedly infringing material is received from the original sender, the Designated Agent will provide copies of all correspondence in the matter to the Vice President for Libraries and Information Technology who will forward copies of such correspondence to the College's attorneys, who will be asked to render an opinion as to whether the allegedly infringing material constitutes copyright infringement. If the allegedly infringing material is determined not to constitute copyright infringement, the material will be restored by the Director, Network and Telecommunications Services (NTS), within four days of such determination.
Designation of Agent to Receive Notification of Claimed Infringement

This is to notify copyright holders that Hamilton College's Designated Agent to receive notices and request concerning claimed infringement, pursuant to the Digital Millennium Copyright Act, is Terry Lapinski. Any copyright holder wishing to send a notice to Hamilton College regarding possible copyright infringement should file that notice in writing with Terry Lapinski at the following address:

Daniel Burke Library
Hamilton College
198 College Hill Road
Clinton, New York 13323
Email: dmca@hamilton.edu
Telephone: 315-859-4487
Fax: 315-859-4578

Seeking Permission to Use Copyrighted Materials

Educators should be aware that it may be possible to make use of copyrighted materials beyond what is provided under fair use, if permission is granted first. There may or may not be a charge, and permission may be refused, but it never hurts to ask.

To seek permission:

First, determine ownership of the work. A Research Librarian can help in determining whom to contact. The Copyright Clearance Center (CCC) may be able to provide permission for using print materials. Library-owned films are not covered by the CCC, so you will need to locate addresses of individual publishers. Next send a detailed letter of request, including the following:

- Title and author's/originator's name
- Editor and edition (if a print material)
- Exact material to be used, including amount, page numbers, chapters and if possible a photocopy of the material, or other appropriate quantitative description
- Number of copies to be made
- Purpose for the duplicated materials
- Form or method of distribution
- Whether or not the material is to be sold
- Type of reproduction (photocopy, slide, videotape, etc.)

You might also do the following:

- Leave blank spaces (possibly in the form of a checklist) at the end for the publisher to fill in whether or not permission is granted, conditions, authorized signature and date.
- Make three copies - one for your files and two to send to the publisher.
- One of these is to be returned to you with the publisher's decision indicated
- Include a self-addressed, stamped return envelope.
- Don't ask for a blanket permission - in most cases it cannot be granted.
- Send by registered mail when response is crucial, such as for publications that will be sold or
Laws, Guidelines and References

Laws and Guidelines


or [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+17USC107](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+17USC107) or [http://www.law.cornell.edu/uscode/html/uscode17/usc_sec_17_00000107----000-.html](http://www.law.cornell.edu/uscode/html/uscode17/usc_sec_17_00000107----000-.html)


DMCA exemptions, 2006: [http://www.asc.upenn.edu/dmca/](http://www.asc.upenn.edu/dmca/)

References

This copyright policy was prepared with information gathered from the following sources:


Harry Fox Agency website ([http://www.harryfox.com/index.jsp](http://www.harryfox.com/index.jsp)) –


Information Circulars and Factsheets from the U.S. Copyright Office: [http://www.copyright.gov/circs/#fl](http://www.copyright.gov/circs/#fl)

Miller, Jerome K. and others. Video Copyright Permissions. Friday Harbor, WA: Copyright Information Services, 1989.

Pennsylvania State University website. Copyright & Other Legal Information: [www.libraries.psu.edu/miss/resources/copyright.html](http://www.libraries.psu.edu/miss/resources/copyright.html)


University of Texas website –

- Getting permission: http://www.utsystem.edu/ogc/intellectualproperty/permissn.htm
- Permission to produce a play or musical, or use music in live performance: http://www.utsystem.edu/ogc/intellectualproperty/perform.htm


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