

## COPYRIGHT POLICY

Approved by the Faculty Assembly on March 15, 2012

### SECTION I. SCOPE.

The core purpose of the University of Redlands is “to educate both the mind and heart, so that each student leaves the University prepared for a life of personal and professional growth and service to the community.” This purpose is achieved by providing students with transformative educational experiences. As an institution devoted to learning and the creation of knowledge, the University of Redlands is committed to a Copyright Policy which respects the rights of both the copyright holders and the learning rights for others under what is called the “fair use” doctrine.

With this policy, the University of Redlands affirms its commitment to full compliance with the spirit and the letter of copyright legislation. To this end, the University of Redlands encourages faculty and staff to respect the legitimate rights of copyright holders while exercising to the fullest the rights accorded them under the "fair use" provisions of federal law.

### SECTION II. DEFINITIONS.

#### A. Copyright

The principle of copyright is derived from Article I, Section 8 of the U.S. Constitution, which grants to Congress the right: “to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries” (Article 1, Section 8 of the United States Constitution). Copyright law, as outlined in Title 17, United States Code, § 102, protects original works of authorship fixed in any tangible medium of expression.

#### B. Fair Use

The fair use doctrine provides for limited use of copyrighted materials for educational and research purposes without permission from the copyright owner. Whether a particular use is a “fair” use requires a case-by-case balancing of four subjective factors. These factors include:

- (1) The purpose and character of the use. Use for educational, non-profit and personal use is favored over commercial use. However, not all educational uses are fair use.
- (2) The nature of the copyrighted work to be used. Use of a work that is factual in nature weighs toward a finding of fair use. Use of imaginative works is more likely to require permission.
- (3) The amount and significance of the portion used in relation to the entire work. When only smaller portions of a work are reproduced, the balance tips in favor of fair use. When large portions are reproduced, the balance tips against fair use.
- (4) The impact of the use upon the potential market for or value of the copyrighted work. Uses that have little or no impact on the marketability of the work are more likely to be considered fair use. Where a work is available for purchase or license at a reasonable cost, copying all or a significant portion of the work (in lieu of purchasing or licensing a sufficient number of authorized copies) would likely weigh against fair use.

### C. Technology, Education and Copyright Harmonization Act (the “TEACH Act”)

The TEACH Act establishes standards for copyright and distance education. The TEACH Act redefines the terms and conditions in which accredited, nonprofit educational institutions in the United States may use copyrighted materials in distance education without permission from the copyright owner. The law expanded the categories of works that can be performed in distance education to include “reasonable and limited portions” of most works, with the exception of works produced primarily for the education market.

The TEACH Act imposes a number of restrictions and requirements, including, among others:

- 1) A work may be displayed only in “an amount comparable to that which is typically displayed in the course of a live classroom session,” which, depending on the nature of the work, may not include the entire work. As a result, the TEACH Act would not permit the posting of lengthy readings that typically would be studied outside of class and is not a justification for the creation of electronic coursepacks.
- 2) Nondramatic literary and musical works may be performed in their entirety, but other works may be performed only in “reasonable and limited portions.”
- 3) To the extent technologically feasible, the institution must limit access to the works used to students officially enrolled in the relevant course.
- 4) To the extent technologically feasible, the content must not be subject to retention by students.

### D. Digital Millennium Copyright Act (DMCA)

The DMCA modified the Copyright Act by, among other things, adding language pertaining to copyright protection and management systems. Highlights include:

- Makes it a crime to circumvent anti-piracy measures built into most commercial software.
- Outlaws the manufacture, sale, or distribution of code-cracking devices used to illegally copy software.
- Permits the cracking of copyright protection devices, however, to conduct encryption research, assess product interoperability, and test computer security systems.
- Provides exemptions from anti-circumvention provisions for nonprofit libraries, archives, and educational institutions under certain circumstances.
- In general, limits Internet service providers from copyright infringement liability for simply transmitting information over the Internet.
- Service providers, however, are expected to remove material from users' web sites that appears to constitute copyright infringement.
- Limits liability of nonprofit institutions of higher education -- when they serve as online service providers and under certain circumstances -- for copyright infringement by faculty members or graduate students.

## SECTION III. GUIDING PRINCIPLES.

The University of Redlands works to facilitate the exercise in good faith of fair use rights by its faculty and staff in furthering their research, teaching, and service activities. The University shall:

- 1) Provide informational and educational support to faculty and staff in understanding their fair use rights through application of the four factors set forth in 17 U.S.C. Section 107. The fair use law is purposefully broad and flexible. It requires thoughtful analysis of each of the four factors based on the particular facts of the situation. A final determination of fair use depends on weighing and balancing all four factors against the facts of an individual situation. Faculty, administrators, staff, and students are expected to make decisions about a contemplated fair use of copyrighted works in an informed and reasonable manner in order to meet educational and research objectives.
- 2) Create a copyright page on the University Website that incorporates both locally developed materials and links to appropriate external Web documents to assist faculty and staff in making good faith decisions on fair use.
- 3) Where possible, avoid adopting or supporting policies, licensing arrangements, or other agreements that would restrict fair use rights.
- 4) Recognize that guidelines developed by various interested parties do not determine fair use and may unnecessarily restrict it. Such guidelines, negotiated voluntarily by private parties with strong representation from publishers, impose quantitative restrictions not written into the statutory or case law that the courts would apply. They are binding only between the parties entering into the guidelines or agreements; they do not bind third parties.
- 5) Affirm a formal copyright policy that avoids detailed interpretations in order to provide the appropriate flexibility to deal with rapidly changing educational needs in an evolving technological environment. Copyright law, in its statutory and case law aspects, seldom provides definitive interpretations of fair use for specific situations. Reasonable people and legal experts will differ in their opinions of how the law applies in any particular set of circumstances. Computer technology continues creating new circumstances that must be interpreted in the light of the fair use provisions. A flexible policy therefore provides the best guidance to the University of Redlands community.

The following Web sites are particularly useful in understanding the legal principles involved and the current state of statutory and case law dealing with this area. They also provide some common scenarios that faculty might consult to obtain guidance in making fair use analyses.

Related Links:

Copyright & Fair Use LibGuide:

<http://libguides.redlands.edu/copyright>

The Association of Research Libraries:

<http://www.arl.org/fairuse>

The United States Copyright Office:

<http://lcweb.loc.gov:80/copyright/>

Copyright & Fair Use, Stanford University Libraries:  
[http://fairuse.stanford.edu/Copyright\\_and\\_Fair\\_Use\\_Overview/](http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/)

Columbia University Copyright Advisory Office:  
<http://copyright.columbia.edu/copyright/>

Association of Research Libraries:  
<http://www.arl.org/pp/ppcopyright/index.shtml>

#### SECTION IV. IMPLEMENTATION.

Each unit of the university that copies and/or disseminates copyrighted material (i.e. Armacost Library, Bookstore, Copy Center, Administrative Services, Student Life, ASUR, Public Relations, etc.) shall develop implementation policies designed to comply with this policy. These implementation policies shall be submitted to the President's Office for recording.