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This Design Institute of San Diego (DISD) Copyright and File Sharing Policy provides information to students, faculty and staff about the lawful use of copyrighted materials on DISD computing networks and in DISD facilities, as well as about the consequences of illegally uploading, downloading, and sharing music, movies, and other types of files.

This Policy is not intended to be a comprehensive treatment of the copyright laws; it is intended to provide you with basic information to help you understand the differences between legal and illegal copying, file sharing, and related activities.

At an institution devoted to the creation of design, we should be especially mindful of copyright issues. The livelihoods of many artists, architects and designers are dependent in large part on the creation of copyrights and the respect for the copyrights of others. You would wish to protect the value of your own copyrights and the income associated with the distribution of your work, and so do the musicians, filmmakers, and other fellow artists and designers whose work is being traded over the internet without compensation. Most audio, visual and textual work available on the internet is protected by copyright law.

DISD is committed to taking reasonable steps to avoid misuse of its computer network, including use of the computer network to violate the copyright law of the United States.

DISD policies prohibit the use of the DISD computer network to violate U.S. laws, including, but not limited to, the U.S. Copyright Act. The unauthorized distribution of copyrighted material violates the Copyright Act and may subject you to civil and criminal penalties. If you have peer-to-peer file sharing applications installed on your computer, you may be sharing copyrighted works illegally without even realizing it.

Members of the DISD community who do not find answers to their questions in this document should feel free to contact the Director, Margot Doucette ([margot@disd.edu](mailto:margot@disd.edu)), Registrar, Tracy Gulino ([tgulino@disd.edu](mailto:tgulino@disd.edu)), or Librarian, Lisa Schattman ([lschattman@disd.edu](mailto:lschattman@disd.edu)), for assistance.

This Policy covers:

**Basic Copyright Principles****The Fair Use Doctrine****Copyright Guidelines for Print Materials****Peer-to-Peer File Sharing****Civil and Criminal Penalties for Illegal Copyright Infringement****DISD Responsibilities and Disciplinary Actions****Resources on Copyright and Fair Use****Digital Millennium Copyright Act Contact Information****Basic Copyright Principles**

Copyright is the right of an author, artist, composer or other creator of a work of authorship to control the use of his or her work by others. Protection extends to literary works, musical works, dramatic works, pantomimes and choreographic works, pictorial and graphic works, sculpture, motion pictures and other audiovisual works, sound recordings, and architectural works. Generally speaking, a copyrighted work may not be reproduced by others without the copyright owner's permission. The public display or performance of copyrighted works is similarly restricted.

There are exceptions to these rules – notably the “fair use” doctrine, discussed below – but generally the unauthorized reproduction, performance or distribution of a copyrighted work is copyright infringement and may subject the infringer to civil and criminal penalties.

## The Fair Use Doctrine

“Fair use” is a copyright law doctrine that permits the reproduction or other use of a copyrighted work, without the copyright owner’s permission, for purposes such as criticism, commentary, news reporting, teaching and research. The Copyright Act does not specify which uses are fair, but rather establishes a four-factor balancing test for courts to employ on a case-by-case basis. The fair use standards, embodied in section 107 of the Copyright Act, are:

- The purpose and the character of the use, including whether it is for commercial or non-profit educational purposes;
- The nature or type of the copyrighted material (i.e., periodical, film, book, etc.);
- The amount and substantiality of the portion used in relation to the whole; and
- The effect of the use on the potential market for or value of the copy-righted material.

Although educational purposes favor a judgment of fair use, all educational purposes do not automatically qualify as fair use. Information about applying the fair use guidelines can be found on many websites, including the following:

- The U.S. Copyright Office: <http://www.copyright.gov/>
- The section on fair use from the University of Texas Copyright Crash Course: <http://copyright.lib.utexas.edu/copypol2.html>

## Copyright Guidelines for Print Materials

These guidelines are intended to provide information to DISD faculty, students, and staff on copyright issues pertaining to the use of print materials, particularly photocopies, handouts, and customized course packs used for purposes of research and instruction. The primary purpose of these guidelines is to increase awareness of compliance issues so that you will use and share information in compliance with the law.

In an effort to assist DISD faculty, students, and staff, we have placed Copyright and Fair Use Guidelines at every copy machine. These guidelines do not offer protection. Each individual is responsible for learning the fundamentals of copyright and fair use in order to apply them in a way that respects the rights of copyright holders when making photocopies of copyrighted materials for research and teaching purposes.

Although copyright law demands that each case be considered on an individual basis, you can avoid illegal use of copyrighted materials by keeping in mind the following guidelines set out in Circular 21 of the United States Copyright Office (<http://www.copyright.gov/circs/circ21.pdf>).

A single copy may be made of any of the following for use in teaching or research:

- A chapter from a book
- An article from a magazine, newspaper or other periodical
- A short story, short essay, or short poem, whether or not it is from a collective work
- A chart, diagram, drawing, cartoon, or picture from a book, newspaper or periodical

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made of any of the following for classroom use or discussion, provided that the copying is at the instance and inspiration of the instructor, and that the decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission:

- Poems or excerpts of poems of less than 250 words
- Complete articles, stories or essays of less than 2,500 words
- Excerpts of articles, stories or essays of less than 1,000 words or 10% of the work, whichever is less
- One chart, diagram, drawing, cartoon, or picture per book or periodical issue

Notwithstanding the above, the following activities are prohibited:

- Copying the same material for more than one course at DISD
- Copying more than one poem, article, story or essay, or more than two excerpts, from the same author
- Copying more than three poems, articles, stories, essays or excerpts from the same collective work or periodical issue during one class term
- More than nine instances of multiple spontaneous copying for one course during one class term
- Copying material to create, replace or substitute for anthologies, compilations or collective works
- Copying works intended to be “consumable”, such as workbooks, exercises, or standardized tests
- Copying material as a substitute for the purchase of books, publishers’ reprints or periodicals
- Copying the same material by the same instructor from term to term
- Charging students beyond the actual cost of photocopying

### **Peer-to-Peer File Sharing**

One purpose of copyright law is to encourage creative work, by giving creators exclusive rights to distribute their own work. DISD expects all network users to comply with copyright law and the Digital Millennium Copyright Act (DMCA). Among other provisions, the DMCA prohibits the circumvention of or tampering with technological measures used by copyright owners to protect their work, such as Digital Rights Management (DRM) software used to protect music files.

Under the Copyright Act, electronic works like music and videos are “works of authorship” just like books or art. The creators of electronic works have the exclusive right to reproduce and distribute their creations. Copying and sharing MP3 music files through file sharing software or reproducing a purchased CD or DVD violates the exclusive rights of the creator.

While it generally is accepted that “space-shifting” – ripping an MP3 from a CD you already own for your own personal use on your own computer or MP3 player – is “fair use,” the courts have held that it is not legal to then share that MP3 indiscriminately over the internet.

Peer-to-peer (P2P) file sharing is wonderful legal technology that allows individual users of the internet to directly exchange files with each other. Problems arise when file sharing programs are used to download and share copyrighted works – like software, music, movies, TV shows, games and images – without permission from the copyright owner. Unauthorized distribution of copyrighted material, including unauthorized P2P file sharing, may result in civil and criminal liabilities in addition to DISD sanctions. Both the person who makes a copy of a copyrighted work available for unlawful download and the person who receives or downloads an illegal copy have violated copyright laws and DISD policies. To be clear, even with regard to lawfully purchased content (such as a song or a movie), unless you have permission from the copyright owner (e.g., the record label or movie studio), it is illegal to allow others to make and keep a copy of that work.

Copyright owners have stated that they are targeting university and college networks because this is where the highest amount of P2P file sharing is occurring. Students who engage in this type of activity are at the greatest risk of being identified by both federal investigators and copyright owners.

In addition to the civil and criminal liabilities of illegal file sharing, P2P applications often use an excessive amount of bandwidth, thereby disrupting the educational use for which the DISD network is intended. Finally, the use of file sharing software allows millions of internet users access to your computer for sharing music and video files. This exposes not only your computer, but every computer connected to the DISD network to significant security risks from viruses, worms, spyware and hackers that could lead to possible loss of data, identity theft and other potential liabilities. As set forth in the DISD Acceptable Use Policy, you are responsible for all activity that transpires through your DISD computing account.

Online content can be accessed legally from a number of websites. EDUCAUSE, a nonprofit organization focused on technology in higher education, maintains a list of legal sources of online music, video and other content: <http://www.educause.edu/legalcontent>. The Motion Picture Association of America (MPAA) also maintains a list of legal sources of online movies and TV shows: <http://www.mpa.org/contentprotection/get-movies-tv-shows>.

### **Civil and Criminal Penalties for Illegal Copyright Infringement**

The U.S. Copyright Act establishes a wide range of penalties for copyright infringement. Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or “statutory” damages affixed at not less than \$750 and not more than \$30,000 per work infringed. Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

Neither the fact that the technology makes it easy to do, nor the fact that you do it for free, nor the fact that you are “publicizing” the artist is a viable defense to a copyright infringement suit. Ignorance of the law or the manner in which your computer is configured will not be a defense if you are caught by the authorities. You could go to jail for copying files even if you are ignorant of the law.

For more information, please see the Web site of the U.S. Copyright Office at [www.copyright.gov](http://www.copyright.gov), especially their FAQ’s at [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq).

### **DISD Responsibilities and Disciplinary Actions**

In making use of DISD IT resources, any student, instructor, staff member, or guest acknowledges that they will abide by this Copyright and File Sharing Policy, the DISD Acceptable Use Policy, and, if applicable, the DISD Computer Lab Policy. While the IT Department does not actively monitor its network for content, it must respond to formal legal complaints it receives. Also, it may monitor the volume of use (bandwidth) for each computer on its network, and it may investigate your network activities in order to keep the network operating smoothly.

DISD community members should be aware that representatives of copyright holders routinely search the internet for infringers, resulting in lawsuits being filed against students and other individuals. Such lawsuits may be very expensive to settle. Copyright holders may also send notices of copyright violation directly to DISD, which requires the school to take immediate action to eliminate infringement.

The DISD procedure for handling a notice of copyright violation is to forward the notice to the alleged infringer. If you are a recipient of such a notice, DISD requires that you certify that you have ceased any such infringing activity and that you will refrain from any such activities in the future. Also, you must sign a statement acknowledging that you have received and read this Copyright and File Sharing Policy and the DISD Acceptable Use Policy. If you receive multiple infringement notices, you may be deprived of further network access.

Furthermore, if DISD incurs any expenses because a student’s actions are in violation of the law and school policies, DISD will seek compensation from the student.

Some students are under the impression that their activity on the internet is largely anonymous or untraceable, but this is untrue. In fact, almost all your activity on the internet is logged on many of the computer systems you use, and while these logs are usually not inspected, they certainly can be used to confirm or implicate you in illegal activity.

The IT Department advises against installing and/or leaving file sharing programs on any computer attached to the DISD network, including your personal laptop or other device. While there are legitimate reasons for using such programs (e.g., the distribution of non-copyrighted files), by operating “silently” they may put the owner of the computer in the position of distributing infringing files, and being liable for such distribution, even though he or she has no intent of doing so.

### **Resources on Copyright and Fair Use**

The following websites contain good information about copyright and fair use:

- The Copyright Advisory Office of Columbia University: <http://copyright.columbia.edu/copyright/>
- The Copyright Crash Course from the University of Texas: <http://copyright.lib.utexas.edu/>
- The Stanford Copyright and Fair Use Website: <http://fairuse.stanford.edu/>
- The U.S. Copyright Office: <http://www.copyright.gov/>

Online content can be accessed legally from a number of websites. EDUCAUSE, a nonprofit organization focused on technology in higher education, maintains a list of legal sources of online music, video and other content: <http://www.educause.edu/legalcontent>. The Motion Picture Association of America (MPAA) also maintains a list of legal sources of online movies and TV shows: <http://www.mpa.org/contentprotection/get-movies-tv-shows>.

In conclusion, you need to be aware that sharing music, videos, software, and other copyrighted material may be a violation of law and can expose you and those with whom you share materials to civil and criminal penalties. Please be responsible in your use of copyrighted materials

### **Digital Millennium Copyright Act Contact Information**

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DISD intends to honor the policies set forth above, but reserves the right to change them as may be required under the circumstances.

Parts of this Policy incorporate some of the substance and language of the Cooper Union Copyright Policy; the Dartmouth Copyright Policy & Guidelines and Peer-to-Peer File Sharing and Copyright Law web page; the Mass Art Electronic File Sharing Policy; the RISD File Sharing Policy; the Stanford Copyright Reminder 2010-2011; the U.S. Copyright Office Circular 21; the U.S. DOE “Dear Colleague” letter of June 4, 2010; the USC Annual Copyright Compliance Letter; and the Yale Annual Copyright Disclosure.