

## HOWARD PAYNE UNIVERSITY COPYRIGHT INFRINGEMENT POLICY

Institutions must annually make available to current and prospective students the institution's policies and sanctions related to copyright infringement, including

- a statement that explicitly informs students that unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject the students to civil and criminal liabilities;
- a summary of the penalties for violation of federal copyright laws\*; and
- the institution's policies with respect to unauthorized peer-to-peer file sharing, including disciplinary actions taken against students who engage in illegal downloading or unauthorized distribution of copyrighted materials using the institution's information technology system.

*Source Federal Regulation HEOA Sec. 488(a)(1)(E) amended HEA Sec. 485(a)(1) (20 U.S.C. 1092(a)(1)); added HEA Sec. 485(a)(1)(P); HEOA amendment effective August 14, 2008; October 29, 2009 FR notice (added 34 CFR 668.43(a)(10))*

Copyright law, as defined in [Title 17 of the United States Code](#), protects "original works of authorship fixed in a tangible medium of expression" for a limited period. Copyright protection includes, for instance, the legal right to publish and sell literary, artistic, or musical work, and copyright protects authors, publishers and producers, and the public. Copyright applies both to traditional media (books, records, etc.) and to digital media (electronic journals, web sites, etc.).

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 an 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. A court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505.

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.

For additional information regarding U.S. Copyright Law, please visit [www.copyright.com](http://www.copyright.com)

Students are responsible for complying with copyright law and applicable licenses that apply to software, files, documents, messages and other material they wish to download, copy, or transmit. All students obtaining access to any material prepared or created by another company or individual must respect any attached copyrights and may not copy, retrieve, modify or forward such copyrighted materials, except with written permission of the lawful owner. Students receiving electronic files via the Howard Payne University's e-mail system or Internet connection should ensure that the sender is the lawful owner or has obtained the necessary license.

### **Library Policy:**

Walker Memorial Library and all libraries contained within the Walker building have a special set of exemptions from liability for copyright infringement when they exercise some of the exclusive rights of copyright holders such as making copies, displaying and performing works publicly, and distributing works to the public (section 108). Our libraries are also protected by fair use as guided by Federal guidelines (section 107) and advised by the American Library Association.

Library employees educate students on copyright policies and fair use through library instructions and guidance during reference interviews. Copyright policies are posted by the copiers and other areas of the library. These policies are available online in the HPU student handbook.

### **Photocopies:**

The copyright law of the United States governs the making of photocopies or other reproductions of copyrighted material. Libraries and archives are authorized to provide photocopies or other reproductions of copyrighted material only under certain conditions, one of which is that the reproduction is to be used for private study, scholarship, or research only. Signs noting this provision are placed at the library copiers and scanners.

**Fair Use:**

The Fair Use Doctrine is arguably the most important limitation on the exclusive rights of the copyright holder. It not only allows but also encourages socially beneficial uses of copyrighted works such as teaching, learning, and scholarship. Without fair use, those beneficial uses – quoting from copyrighted works, providing multiple copies to students in class, creating new knowledge based on previously published knowledge – would be infringements. Fair use is the means for assuring a robust and vigorous exchange of copyrighted information.

**Public Domain:**

A public domain work is a creative work that is not protected by copyright and which may be freely used by everyone. The reasons that the work is not protected include:

- (1) the term of copyright for the work has expired;
- (2) the author failed to satisfy statutory formalities to perfect the copyright or
- (3) the work is a work of the U.S. Government.

For more information on public domain please go to: <https://www.teachingcopyright.org/handout/public-domain-faq>

**Digital Archives:**

Patrons and users have the right to use any online materials for educational fair use from our digital media, databases, and online archives without prior permission. Our libraries ask that you provide proper citation information, indicated above, in all copies. Access to our original copies of online digital content need to set up an appointment with a librarian to access the original content.

**For additional information on fair use and copyright patrons will be encourage to visit:**

The Fair Use Index <http://copyright.gov/fair-use/>

Copyright Clearance Center Copyright Basics: <https://www.youtube.com/watch?v=Uiq42O6rhW4>

**Faculty:**

Faculty are encouraged to know their rights by visiting websites and links including:

Association for Research Libraries Guide to Copyright: <http://www.knowyourcopyrights.org/resources-for-teaching-faculty>

MPAA and RIAA: <http://www.mpaa.org/> & <http://www.riaa.com/>

American Library Association: <http://www.districtdispatch.org/policy-issues/copyright/>

## TECHNOLOGY DETERRENDS REGARDING COPYRIGHT INFRINGEMENT

The University has a plan to combat the unauthorized distribution of copyrighted materials; this plan includes a variety of technology deterrents, including a method for deterring the downloading of music and movies. Any attempt to circumvent or violate these technology-based deterrents is strictly prohibited.

Current deterrents include:

- 1) configuring the network firewall to block all known and suspected peer-to-peer/file-sharing websites or IP addresses;
- 2) configuring the network firewall to throttle any other traffic typical of these downloads;
- 3) running reports that monitor bandwidth to check for excessive downloading or uploading or other unusual spikes of activity;
- 4) configuring network access to prevent multiple (file/server) connections to a single computer connected to the network; and
- 5) blocking access in the event of repeat offenses.

## DISCIPLINARY ACTIONS BY THE UNIVERSITY

All policies regarding disciplinary action for students can be found in the Student Handbook under Student Conduct Sanctions and Processes. Policies regarding faculty and staff are included in the Policies and Procedures Manual for Employees under Code of Employees Ethics and Conduct.

## CONTACT INFORMATION

Questions concerning academic copyright infringement may be directed to the Dean of Library at 325/649-8610 or 325/649-8602.

Questions related to technology may be directed to the Information Technology Office at 325/649-8075.

Questions related to student violations or disciplinary actions may be directed to the Office of Student Life at 325/649-8613.

Questions related to employee violations may be directed to the Office of Human Resources at 325/649-8974.