

Saint Joseph's College Copyright Policy

I. Introduction

Faculty, staff, and students of Saint Joseph's College are called both by the mission of the College and the spirit of the Sisters of Mercy to be part of a true community by encouraging respect, courtesy, hospitality, inclusive relationships, collaboration, and integrity. Among the ways in which members of the College community can express this call through their own actions, especially in relation to the core value of integrity, are by respecting intellectual property rights of others and by obeying copyright laws.

The purpose of the Saint Joseph's College Copyright Policy is to provide an overview of United States copyright law as it pertains to the use of copyrighted works in an educational setting and to provide direction to ensure the lawful use of copyrighted materials by faculty, staff, and students. Members of the College community are expected to abide by this policy to ensure that the intellectual property rights of the creators of original works are not infringed upon.

II. Copyright Overview

A. What Is Copyright?

Copyright is an area of law that provides creators or distributors of —original works of authorship, “including literary, dramatic, musical, artistic, and certain other intellectual works, with an incentive to share their works by granting them the right to be compensated when others use those works in certain ways”. Specific rights are granted to the owners of works in the U.S. Copyright Act ([Title 17, U.S. Code](#)). Owning a physical copy of a work (book, journal, DVD, etc.) is not the same as owning the copyright for that item; therefore, if you are not the copyright owner for a particular work, as determined by the law, you must ordinarily obtain copyright permission prior to reusing or reproducing that work. However, there are some specific exceptions in the Copyright Act for certain academic uses, and permission is never required for certain other actions, such as reading or borrowing original literary works or photographs from a library collection.

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B. What Is Protected By Copyright?

Copyright protects —original works of authorship,¹ including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural and audiovisual creations, that are fixed in a tangible form of expression. This means that virtually any work that you may come across—including books, magazines, journals, newsletters, maps, charts, photographs, graphic materials, and other printed materials; unpublished materials, such as analysts' and consultants' reports; and non- print materials, including

electronic content, computer programs and other software, sound recordings, motion pictures, video files, sculptures, and other artistic works—is almost certainly protected by copyright. Among the exclusive rights granted to copyright owners are the rights to reproduce, distribute, publicly perform and publicly display their works. (Please note that the author of a work may not necessarily be the owner of the copyright for that work. For example, the copyright for a book may be held by the publisher, not the author.)

These rights provide copyright owners control over the use of their works and an ability to benefit, monetarily and otherwise, from the use of their works. Copyright also protects the right to "make a derivative work," such as a movie from a book; the right to include a work in a collective work, such as publishing an article in a book or journal; and the rights of attribution and integrity for "authors" of certain works of visual art. Copyright law does not protect ideas, data or facts although it may protect the way these things are expressed.

In the U.S., the general rule of copyright duration for a work created on or after January 1, 1978 is the author's life plus 70 years after the author's death. This is often referred to as "life-plus-70". Works created by companies or other types of organizations generally have a copyright term of 95 years. For more information on copyright duration, visit <https://www.copyright.gov/help/faq/faq-duration.html>.

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C. Fair Use

A provision for fair use is found in [Section 107](#) of the Copyright Law. Under the fair use provision, a reproduction of someone else's copyright-protected work is likely to be considered fair if it is used for one of the following purposes: criticism, comment, news reporting, teaching, scholarship and research. If the reproduction is for one of these purposes, a determination as to whether the reproduction is fair use must be made based upon four factors:

1. The purpose and character of use (principally, whether for commercial or nonprofit educational use);
2. The nature of the copyright-protected work;
3. The amount and substantiality of the portion used; and
4. The effect of the use being evaluated upon the potential market for or value of the copyright-protected work.

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D. Public Domain

Certain works are not protected by copyright, and therefore may be freely copied and used without permission; these works are in the —public domain. Works in the public domain include:

1. Works published in the United States prior to 1923.
2. Works published by the U.S. Government (but not state or local government works).
3. Works published or copyrighted from 1923 through 1963, if their copyright was not renewed with the Copyright Office or, in some cases, if they were published without a copyright notice.

Researching the copyright status of a work is complex. For more information, see “Duration of Copyright: Provisions of the Law Dealing with the Length of Copyright Protection” at <http://www.copyright.gov/circs/circ15a.pdf> and/or “Copyright Term and the Public Domain in the United States” at <http://www.copyright.cornell.edu/resources/publicdomain.cfm>.

Please note that while a work may be in the public domain, if it is republished with new and original content (images, commentary, interpretation, criticism, etc.), this content would be protected by copyright.

III. Directions for Using Copyrighted Works

The following is for informational purposes only and should not be considered legal advice.

A. Personal Copying

Making a single copy of a small portion of an entire work by an individual for “purposes such as criticism, comment, news reporting, teaching, scholarship, or research” would generally fall under the Fair Use provision ([17 U.S.C. § 107](#)). Copying an entire work would likely not be considered fair use.

B. Classroom Copying

Faculty often wish to reproduce and disseminate hard copies in class or post in their course sites portions of copyrighted books, journals, magazines, and/or newspapers for students in their courses. Unless a copyrighted work is accompanied with a notice explicitly prohibiting reproduction and dissemination without permission of the copyright holder, use of it in a classroom setting (both in face-to-face and online teaching) would most often be considered a **fair use**, provided three tests are met:

- Brevity – The portion to be used is a small part of the whole. For books, one chapter or an amount not to exceed 10% of the entire book and for periodicals, one article per issue would likely meet this test. For highly creative, brief, standalone works the following guidelines are suggested:
 - Poetry - A complete poem if less than 250 words or, for longer poems, an excerpt of not more than 250 words.
 - Short stories and essays - A complete work of less than 2,500 words or an excerpt of not more than 2,500 words.
- Spontaneity - The inspiration and 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.

- Cumulative effect - The copying/posting of the material is for only one course, no more than one portion may be used from the same author nor more than three from the same collective work or periodical volume during one class term, and there shall not be more than nine instances of such multiple copying for one course during one class term.

Notwithstanding any of the above, the following shall be prohibited:

- Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works whether copies are accumulated or reproduced and used separately.
- There shall be no copying of or from works intended to be “consumable” in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.
- Copying shall not:
 - substitute for the purchase of books, publishers’ reprints or periodicals;
 - be directed by higher authority;
 - be repeated with respect to the same item by the same teacher from term to term.
- No charge shall be made to the student beyond the actual cost of the photocopying.

(Source: [Reproduction of Copyrighted Works by Educators and Librarians](#))

Linking to Copyrighted Content

Most often, if a full-text article is in one of the library’s research databases or the library owns an electronic version of a book, providing students with a link to the material (rather than making either a physical or digital copy) would not be an infringement of copyright.

C. Performances/Displays of Audiovisual Works

1. Face-to-Face Instruction

Most classroom uses of films and sound recordings are permissible, provided the performance/display is by instructors or students in a non-profit educational institution and is done in connection with face-to-face teaching activities.

According to [Section 110 of the Copyright Law](#), for the performance/display not to be an infringement, all the following criteria must be met:

The performance/display must occur:

- in a classroom or similar place devoted to instruction
- as part of a regularly scheduled course
- as part of the face-to-face classroom teaching activities

The work must be:

- a lawfully made copy
- directly related to the course content

- shown only to students enrolled in the course

2. Online Education

The Technology, Education and Copyright Harmonization (TEACH) Act was enacted in November 2002 as an amendment to the Copyright Act of 1976. Found in [Section 110\(2\)](#), it revises the performance and display exemptions by updating and expanding them to apply in the online environment. These revisions specifically provide, under certain restrictions and subject to specified conditions, for the use of copyrighted materials in the online educational environment without having to obtain permission of the copyright holder.

In a non-profit educational institution as part of “mediated instructional activities,”

- faculty may transmit video or audio of all of a **non-dramatic** literary work (e.g., poetry or short story reading) and a complete recording or video of a **non-dramatic** musical work, and
- for all **dramatic** literary and musical performances (including opera, music videos, and musicals) faculty are limited to transmitting—reasonable and limited portions, provided:
 - o the audiovisual content transmitted is a lawfully made copy (When excerpting from a DVD or other electronic media [—ripping], technological encrypting controls that a copyright owner has applied to a work may not be circumvented.);
 - o access to performances and displays of copyrighted materials is limited to students currently enrolled in the course and should be available for a prescribed time period only, normally a single class session; and
 - o reasonable efforts are made to prevent retention and dissemination of copyrighted works displayed electronically during the course of instruction. (Video and audio should be streamed to prevent students from downloading and saving the file.)

D. Visual Images

Two-dimensional visual images in the public domain (for example, works created before the enactment of copyright laws and works published in the US before 1923) may be used without restriction or permission. Also, reproductions of two-dimensional artwork in the public domain are not protected by copyright if the reproductions are slavish or lacking in originality. (For example, one may use a photograph taken of the *Mona Lisa* and not be infringing copyright.)

When faculty, in the course of instruction, or students, as part of classroom presentations, wish to use copyrighted visual images, it is recommended that the images be located online and linked to rather than copied.

If a copyrighted image is not available online to be linked to or if a hardcopy is needed, it should be determined whether or not the use is a fair use, using the four factors. (See the section on Fair Use above.)

If the use of a copyrighted image would not be considered a fair use, permission from the copyright owner to copy the work must be obtained. Please note that a photograph of a three-dimensional work of art actually embodies two copyrights, one for the creator of the art object and another for the photographer.

Faculty and students must provide attribution to the author, creator, or producer of each image used for fair use purposes or for any other purpose.

E. Software

The Saint Joseph's College [Acceptable Use Policy for Information Technology](#) addresses the use of copyrighted software on College computers and networks.

F. Seeking Permission

If the use of a work (amount and/or duration) would not be considered a fair use faculty must seek permission from the copyright owner to use the work.

Contact the copyright owner directly. Many publishers have copyright permission information on their Web sites that delineate the process. If a written request letter is needed, see the sample in Appendix A.

G. Departmental Guidelines:

1. Library – Course Reserves

Staff of the Wellehan Library have developed a policy and guidelines to be applied to copyrighted materials to be placed on physical reserve. Please see the Library's —For Faculty Web page (<https://u2u6s2i9.rocketcdn.me/wp-content/uploads/Academics/Library/Files/PolicyandProcedures.pdf>) for more information.

2. Bookstore – Coursepacks

BNC Virtual, operator of the campus bookstore, has a custom publishing operation that will research copyrights, obtain necessary permissions, and reproduce the material into coursepacks for sale to students. All charges for researching, photocopying, and royalties are included in the cost of the coursepack. For a coursepack to be produced and sold at the Bookstore, six to eight weeks before the start of the course, a faculty member needs to submit a bibliography with complete citations for each of the items in the coursepack as

well as one copy of each of the items to the bookstore manager. Please contact the bookstore manager for more information.

IV. Responsibilities & Compliance

Saint Joseph's College faculty, staff, and students are expected to comply with copyright laws and abide by this policy; failure to do so may result in individual liability for copyright infringement and/or disciplinary action. The College may refuse to defend and indemnify employees who willfully and with knowledge commit copyright infringement.

V. Education

It is the policy of the College to inform and educate faculty, staff, and students regarding federal copyright law, the rights of copyright owners, the legal obligation of the College to comply with applicable law, and the rights of the College community to use copyrighted works. To this end, educational materials and training will be made available so that members of the College community may engage in teaching and learning activities and perform their assigned duties in compliance with the law.

VI. Policy Review

As copyright law, its interpretations, and guidelines for complying with it are ever-evolving, this policy is under continual review and will be updated as necessary.

VII. Claims of Copyright Infringement

Claims of copyright infringement by copyright owners must be submitted in writing to the College's Copyright Officer:

Dr. Monique LaRocque
Academic Affairs
Saint Joseph's College
278 Whites Bridge Road
Standish, ME 04084

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Appendix A - Sample Copyright Permission Letter and Release Form

To:

From:

Date:

RE: Permission to <duplicate and distribute a book chapter/journal article>

Dear _____:

I request permission to use the following copyrighted work for <course number and name> for the <Fall/Spring/Summer Year> semester.

Author(s):

Title (edition, volume):

Copyright date:

Material to be duplicated (chapter, pages):

Form of distribution: <handout in class, post in course management system>

Type of reprint: <photocopy, digitized copy>

Number of <copies – for handouts, students – for electronic distribution>:

Thank you for your prompt consideration of this request. Enclosed is a stamped, self-addressed envelope to send back the completed and signed release form I have included.

Sincerely,

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<your signature>

RELEASE FORM

- ☐ Permission is granted for the use requested.

The material must be accompanied by the following credit line and copyright notice:

- ☐ No fee is required for this use.
- ☐ A fee of \$ _____ must be paid for this use.
- ☐ Permission is not granted for the use requested for the following reason(s):

Signature

Date

Name, Title:

Company or Institution:

Phone Number:

Email Address:
