

**ALLEN COLLEGE – UNITYPOINT HEALTH
STANDARD OPERATING PROCEDURE**

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Approved By:



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President

SUBJECT: Copyright Guidelines

PURPOSE: To comply with the federal copyright law (Title 17 U.S. Code) that governs the reproduction of works of authorship. Copyright law provides a balance between the promotion of creativity by assigning rights to the creators which protect their work (Title 17, United States Code) while at the same time facilitating public access to the copyrighted works (Fair Use). In general, works governed by copyright law include such traditional works of authorship as books, photographs, music, drama, video and sculpture, and also software, multimedia, and databases. Copyrighted works are protected regardless of the medium in which they are created or reproduced; thus copyright extends to digital works and works transformed into a digital format. **Copyrighted works are not limited to those that bear a copyright notice.** Works published since March 1, 1989 need not bear a copyright notice to be protected under copyright law. The copyright law of the United States ([Title 17, United States Code](#)) governs the making of photocopies or other reproductions of copyrighted material.

To inform that anything that is tangible can be copyrighted. Also, to note that most, if not all, works distributed electronically are protected by copyright. It should be assumed that all works available on the computer networks and the WWW are copyrighted, including but not limited to images, text, logos, software, sounds, movie clips, email, and posting to newsgroups.

Joint Commission Standard: Ethics, Rights and Responsibilities

EFFECTIVE FOR: Faculty, staff, administration, students, and outside patrons of the library seeking use of copyrighted materials.

DECISION MAKING GUIDANCE:

The following are suggestions to assist faculty, staff, and students in making decisions before use of copyrighted material.

1. The best option for the use of any source is to LINK it to a location that is on the internet. This does not violate copyright or fair use. The website where the source is located is responsible for copyright in this case.
 - a. Look for resources that can be directly linked to. If the specific resource is not available, consider finding another resource that suffices and can be directly linked to rather than copying a resource.
 - b. If a source is available in EbscoHost, consider using and/or providing directions to students on how to find that source in the database so students can access the source on their own.

There is no copyright issue when the article is obtained in this way.

2. Only if the source is not easily available should copying be considered.
 - a. If a source is not easily available, e.g., on-line, hard copy, etc., then the individual searching for the resource should sign the form included in this SOP. Signing the form alone is not equivalent to asking permission.
 - i. The person seeking the resource needs to recognize that they accept full responsibility for using the resource. This is beyond obtaining permission from the publisher or owner of the resource. This requires the individual take full responsibility with the understanding that they could be taken to court should an alleged copyright infringement be identified and reported.
 - b. In addition, the person searching for the resource should be directed to seek permission to copy it from the owner of the resource. This is the only way that person would be rightly protected from copyright infringement when copying a resource.
 - i. Though this method is more labor intensive it would guarantee that the person obtaining the resource does not breach copyright, intentionally or otherwise.

PROCEDURE:

Before reproducing, preparing derivative works, distributing copies, publicly performing or displaying material that is protected under copyright law ask yourself the following questions:

- Is the work in the public domain? If yes, no permission is necessary.
- Do fair use guidelines apply or has permission to use been requested?
- Complete the 'Copyrighted Material Release Agreement Form' and return to library personnel at the time the request is made. (see appendix a)

If the work is not in the public domain, and fair use does not apply, you must obtain permission from the copyright owner (usually the publisher) or through a representative such as Copyright Clearance Center.

DEFINITIONS, EXPLANATIONS & GUIDELINES

The following definitions, explanations, and guidelines were referenced from the Copyright Law of the United States (United States Copyright Office, 2011).

PART 1: What is Copyright?

PART 2: Examples of Public Domain and Copyrighted Works

PART 3: Fair Use

PART 4: Guidelines for Use of Copyrighted Works (by format)

PART 5: Reproduction By Libraries & Archives

PART 6: First Sale

PART 7: Classroom Performance & Display

PART 8: Copyright Infringement & Deterrents

PART 9: Getting Permission

PART 10: Resources & Tools

PART 1: What is Copyright?

Copyright is a form of intellectual property protection provided by the law of the United States (Title 17, US Code) to authors of original works of authorship fixed in a tangible medium of expression. It arises automatically as soon as the work is fixed and does not require publication or registration. U.S. copyright law applies equally to both digital and non-digital works.

Section 106 of the Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

- Reproduce the work
- Prepare derivative works
- Distribute copies of the work
- Publicly display the work directly or by telecommunication
- Publicly perform a sound recording by digital means

PART 2: Examples of Public Domain and Copyrighted Works

PUBLIC DOMAIN	COPYRIGHTED WORKS
These works are not protected by copyright; may be used freely.	
<ul style="list-style-type: none"> ▪ Ideas ▪ Facts ▪ Words, names, slogans, or other short phrases (can be protected by trademark) ▪ Blank forms ▪ Works created by the federal government ▪ Works where the creator has expressly disclaimed a copyright interest ▪ Works where copyright has expired – term of copyright is life of the author plus 70 years, and for corporate, anonymous, or pseudonymous works, it is 95 years from the year of first publication, or 120 years from the year of creation, whichever is first. 	<ul style="list-style-type: none"> ▪ Literary Works – blogs, books, cartoons, emails, letters, magazines, memos, newspapers, newsletters, trade journals, training materials and other written material in paper or digital format ▪ Computer Software – on disc, downloaded or in other formats ▪ Pictorial, Graphics and Sculptures – three-dimensional artworks and other creations, as well as two-dimensional cartoon characters, graphical images, maps and photographs, in paper or digital format ▪ Architectural Works – buildings and the like ▪ Sound Recordings and Accompanying Words: recorded or performed on cassette tapes, compact discs, phonographic records, podcasts or other media ▪ Audiovisual Works – motion pictures, multimedia presentations, demonstrations and slideshows, in analog or digital format ▪ Dramatic Works and Accompanying Music: plays and screenplays, regardless of the medium in which performed or displayed ▪ Pantomime and choreographic Works – dance and mime performances

PART 3: Fair Use

Section 107 of the Copyright Act provides limitation to the copyright holder's exclusive rights, allowing use of copyrighted material without obtaining permission from the copyright owner. Fair use is expressed in guidelines rather than explicit rules. **It is important to understand that "fair use," while allowing use of copyrighted material, provides guidelines for courts to make decisions on a case by case basis.** Before using or copying materials for educational purposes, you must consider all of four factors:

1. **Purpose and character** of the use. Criticism, commentary, news reporting, teaching, scholarship, and research are considered "core" fair uses. Personal, nonprofit, or educational usage weigh in favor of a finding of fair use. Commercial usage weighs against a finding of fair use.
 2. **Nature** of the copyrighted work, consideration being given to the distinction between a creative work and an informational work. Imaginative and unpublished works are granted greater protection than factual and published works.
 3. **Amount, substantiality, or portion** used in relation to the copyrighted work as a whole. This requires consideration of the proportion and the significance of the copied portion of the work.
 4. **Potential market** effect of the use on copyrighted work. This factor is often given great importance by the courts.
- **Safe Harbor Guidelines for Fair Use**

Copying will not be used to create or replace anthologies, compilations or collective works. There will be no copying of works intended to be consumable, such as workbooks, test booklets, etc. No charge will be made to the student beyond the actual cost of copying. Copying will not substitute for the purchase of books, reprints or periodicals; be directed by a higher authority, or be repeated with respect to the same item by the same teacher from term to term.
 - **Single copies for teachers:**

A single copy may be made of any of the following by or for a teacher for his/her scholarly research or use in teaching or preparation to teach a class:

 - One chapter from a book.
 - One article from a periodical or newspaper.
 - One short story, short essay or short poem, whether or not from a collective work.
 - One chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.
 - Multiple excerpts from a single book or journal issue **only** if the total length of the material is 10% or less of the complete work.

○ **Multiple Copies for Classroom Use:**

Multiple copies not to exceed more than one copy per student in a course may be made by or for the teacher giving the course for classroom use or discussion; provided that the copying meets the following tests of brevity, spontaneity, and cumulative effect. **Each copy must also include prominent notice that it is copyrighted material.**

▪ **Brevity:**

- **DATABASES:** 2,500 fields or cell entries or up to 10%, whichever is less.
- **ILLUSTRATIONS:**
 - One chart, graph, diagram, drawing, cartoon or picture per book or periodical issue.
 - No more than 5 images from one artist or photographer.
 - No more than 15 images or 10% of a collection, whichever is less.
- **MUSIC, LYRICS, MUSIC VIDEO:** No more than 30 seconds of music or lyrics from an individual musical work or up to 10% of the complete work, whichever is less.
- **SPECIAL WORKS:** Certain works which contain text and illustrations, and are less than 2,500 words, may not be reproduced in their entirety. However, an excerpt of not more than two published pages or not more than 10% of the words found in the text, whichever is less, may be reproduced.
- **TEXT**
 - **Prose:** A complete article, story or essay of less than 2,500 words, or an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less. These numerical limits may be expanded to permit the completion of an unfinished paragraph.
 - **Poetry:** A complete poem of 250 words or less (if printed on not more than two pages), or an excerpt of not more than 250 words. These numerical limits may be expanded to permit the completion of an unfinished line of a poem.
- **VIDEO & FILM:** Three (3) minutes or up to 10% of the complete work, whichever is less.

○ **Spontaneity:**

Both the desire of the instructor to use copyrighted work and the need of the instructor to copy/use the material are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

○ **Cumulative Effect:**

Copying of the material is for only one course and only one copy per student in that course.

A copy of one short poem, article, story, essay or two excerpts from the same author, or no more than three from the same collective work or periodical volume during a single term.

There will not be more than nine instances of such multiple copying for one course during a single term.

PART 4: Guidelines For Use of Copyrighted Works (by format)

Use of audiovisual equipment for duplication purposes.

Audiovisual equipment owned by Allen Health System will not be used for duplication purposes unless in compliance with the copyright law. These equipment items include, but are not limited to: audiocassette recorders, computers, copiers and fax machines, video recorders.

Note: No one is permitted to copy any portion of a copyrighted work sent to the college or institution for preview or rental or owned by another school or institution, without the express written permission of the copyright holder.

Use of audiovisual equipment for the performance or presentation of copyrighted media.

Audiovisual equipment owned by Allen Health System will not be used to perform or present copyrighted media unless in compliance with the copyright law.

Audio Recordings

- **Students:** A single copy *of a portion* of a sound recording may be made by or for a student (i.e. song from a record, but not the entire recording). The copy can only be used in the educational context in which it was made and may not be sold or performed for profit.
- **Faculty:**
 - **Student Performance:** A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual instructor.
 - **Other Sound Recordings:** A single copy of the entire sound recording of copyrighted material or a portion thereof may be made from sound recordings owned by an educational institution or an individual teacher for the purposes of constructing aural exercises or examinations and may be retained by the educational institution or individual instructor.

Computer Software

There are two definitions of making a copy of computer software:

1. Under the law, educators are allowed to make a back-up copy; this copy cannot be used at the same time as the original. You cannot make copies of one program for simultaneous use as in a lab.
2. A copy of a computer program is also being made when loaded onto the hard drive (into the memory) of a computer. It is illegal to load one copy of a program onto several computers to be used at the same time unless the appropriate license agreement has been obtained.

Course Packs

Every article or chapter in a course packet, if derived from copyrighted material, requires permission from the copyright owner (usually the publisher). *Anthologies* such as these, created by faculty for a course are perceived by the courts in Fair Use cases as an attempt to substitute for textbooks, and as such, reduce the potential market for copyrighted publications.

Each item included in the packet must include a copyright notice — e.g., "Copyright 1990 by Academic Books, Inc."

Digital Images

1. Is the image you wish to use readily available online or for sale or license at a fair price?
 - If **YES**: Link to, purchase or license the image. Do not digitize it unless you are in the process of negotiating a license. If you have a "contract pending," digitize and use the image in accordance with these guidelines until the license is finalized and you have received the licensed digital image.
 - If **NO**: Digitize and use the image in accordance with the following limitations:
 - Limit access to all images except small, low resolution "thumbnails" to students enrolled in the class and administrative staff as needed. Terminate access at the end of the class term.
 - Faculty members also may use images at peer conferences.
 - Students may download, transmit and print out images for personal study and for use in the preparation of academic course assignments and other requirements for degrees, may publicly display images in works prepared for course assignments etc., and may keep works containing images in their portfolios.
2. Periodically review digital availability. If a previously unavailable image becomes available online or for sale or license at a fair price, link to or acquire it.

Distance Education

Although copyright law generally treats digital and non-digital copyright-protected works in a similar manner, special digital uses, such as online distance learning and course management systems, require special attention. Some of the special copyright requirements of online distance learning are specifically addressed by the TEACH Act (Technology, Education, and Copyright Harmonization, 2002).

The TEACH Act's primary purpose is to balance the needs of distance learners and educators with the rights of copyright holders. It also helps provide a similar experience for students enrolled in distance education programs to that of students in the classroom. TEACH applies to distance education that includes the participation of any enrolled student, on or off campus.

Any licenses acquired with materials purchased specifically for distance learning should include all the rights you will need to use them for this purpose. If they don't or if you want to use something not specifically purchased for this use:

- Incorporate performances of others' works sparingly and only if a faculty member or the institution possesses a legal copy of the work (i.e., by purchase, license, fair use, interlibrary loan, etc.).
- Include any copyright notice on the original and appropriate citations and attributions to the source.

- Limit access to students enrolled in the class and administrative staff as needed. Terminate access at the end of the class term.
- Obtain permission for materials that will be used repeatedly by the same instructor for the same class.

Internet Materials

Material found on the Internet is not necessarily in the public domain. It includes both copyrighted and non-copyrighted material. When in doubt about the status of work obtained from the Internet, always

- Assume that the material is copyrighted.
- Credit the source of the information.
- Determine whether the author of a work (e.g., video, audio, graphic or icon) provides information on how to use their work. If explicit guidelines exist, follow them. If not, follow the appropriate quantity limitations specified by format (e.g. databases; illustrations; music, lyrics, music video; special works; text; video and film).
- Request copyright for permission from the owner, when feasible. Keep a copy of the request for permission and the permission received.

The Higher Education Opportunity Act (2008) requires all colleges and universities to offer legal alternatives to unauthorized downloading. The following links are lists of legal sources of online content that Allen Health System is aware of. No endorsement or evaluation is intended.

EDUCAUSE

MPAA Legal Options for Movies & TV Shows

Recording Industry Association of America

Note: Some of the sites listed provide some or all content at no charge; they are funded by advertising or represent artists who want their material distributed for free, or for other reasons. Just because content is free doesn't mean it's illegal. On the other hand, you may find websites offering to sell content which are not on the list. Just because content is not free doesn't mean it's legal.

Multimedia Materials

These guidelines apply only to educational multimedia projects that incorporate the instructor's or student's original material, such as course notes, together with portions of various copyrighted media, including audiovisual works, music, text, and graphics.

These guidelines are rights to create a unique work, but not to make multiple copies of that work and distribute them.

Students, faculty and staff may incorporate others' works into a multimedia work, display and perform a multimedia work, in connection with or creation of:

- Class assignments
- Curriculum materials
- Remote instruction
- Examinations
- Student portfolios
- Professional conferences, presentations, workshops

Music

Individual Listening

There is no copyright infringement involved with the use of a radio or cassette/CD player to play music that will be heard only by the individual(s) working in a specific space (e.g. an individual's office, cubicle, etc.).

In-house Speaker System

Music can be distributed through a speaker system (e.g. auditorium, elevators, lobby areas, waiting areas, etc.) if the appropriate license agreements are obtained. Most composers, recording artists, musicians, etc. belong to one or both of the following organizations – BMI, ASCAP. Allen Health System maintains license agreements from both of these companies allowing music to be played either from a radio, cassette/CD, or subscription service.

Live Performance

The appropriate license agreements from BMI and ASCAP are maintained by Allen Health System so that live music can be performed in such places as auditoriums, lobbies, etc.

Sheet Music

- Limit copying to:
 - Entire works – only for performances and only in emergencies.
 - Performable units (movements, sections, arias, etc.) – only if out of print.
- Include any copyright notice on the original and appropriate citations and attributions to the source.
- Replace emergency copies with purchased originals if available.

Research Copies

Limit research copies to

- Single chapters
- Single articles from a journal issue
- Several charts, graphs, illustrations
- Other similarly small parts of a work.

Reserves (electronic, print)

- Limit reserve materials to
 - Single articles or chapters; several charts, graphs or illustrations; or other small parts of a work.
 - A small part of the materials required for the course.
 - Copies of materials that a faculty member or the library already possesses legally (i.e., by purchase, license, fair use, interlibrary loan, etc.).
- Include any copyright notice on the original and appropriate citations and attributions to the source.
- Limit access to students enrolled in the class and administrative staff as needed. Terminate access at the end of the class term.
- Obtain permission for materials that will be used repeatedly by the same instructor for the same class.
- DO NOT:
 - sell or re-distribute content or copies;
 - share outside Allen faculty, staff and students;
 - post actual content or articles to websites or listservs, or
 - modify, alter or create derivative works.

Slide & Filmstrip Programs

- **Students:** A single copy *of a portion* of a copyrighted slide or filmstrip program may be made by a student for educational purposes if the material is owned by the school which the student is attending. The fair use guidelines apply.
- **Faculty:** A single copy *of a small portion* of a slide or filmstrip program may be made by or for a teacher for scholarly or teaching purposes. The fair use guidelines apply.

Video & Film

Classroom Use vs. Public Performance

Copyright law defines a public performance as a performance taking place anywhere “open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered.” Therefore, it is a violation of federal law to show a copyrighted video or film to a group of people other than in a family (home) setting whether or not an admission fee is charged. Even performances in semipublic places such as clubs, lodges, businesses, camps, day care centers, senior centers, libraries, and schools are public performances and subject to copyright control. This applies to both for-profit and non-profit organizations.

A public performance of a video or film falls into one of three categories:

1. Theatrical Exhibition – admission is charged
2. Nontheatrical Exhibition – no admission (including donations) is charged
3. **Fair Use Educational Exemption for Classroom Use**
 - a. The video must be shown in a classroom or similar place of instruction (not closed-circuit).
 - b. The video must be used for face-to-face instruction with students.
 - c. The video must be incorporated as part of the systematic teaching activities of the program in which it is being used.

- d. The video may not be used for other than planned, direct, instructional activities.
- e. The video may not be used for entertainment, fund-raisers or time fillers as these types of uses constitute public performances.
- f. The video must be a lawfully made copy.
- g. There is no charge for viewing the video.

The only legal way to perform a copyrighted video, for other than classroom use, is to pay the appropriate licensing fees. Most video distributors (who you purchased the video from) don't have the copyright authority to grant public performance rights. To obtain public performance rights, contact either the producer of the video or the Motion Picture Licensing Corporation.

Duplication of Videotapes:

- Copyrighted videotapes will be copied only if written permission from the copyright holder is obtained.
- Even temporary copying for later playback of copyrighted videotapes is an infringement of copyright and will not be done.

Off-Air Recording:

1. Recording from broadcast and cable programming:
 - A. Off-air recording of "broadcast programs", which are defined as those programs transmitted by television stations without charge to the general public, is permitted. The 45/10 rule, explained below, would apply. The stations in our broadcast area are:
 - KCRG (ABC) – Cedar Rapids
 - KGAN (CBS) – Cedar Rapids
 - KWWL (NBC) – Waterloo
 - IPT (Iowa Public Television) – Des Moines
 - B. Pay services such as HBO, ESPN, Discovery, etc. do not fall under these guidelines.
2. Recording from satellite:
 - A. The recording and use of satellite programming without registration and payment of the appropriate fee is illegal.

The 45/10 Rule for Off-Air Video Recording and Recording at Home for Instructional Use:

These guidelines apply to off-air recording by nonprofit educational institutions.

1. Videotapes may be kept for only 45 calendar days after the recording date. The videotapes must be erased after this time.
2. The videotape may be shown to students only during the first 10 school days after the recording date. It may be repeated once for reinforcement. After the first 10 school days allowed for showing, the recording may only be used for evaluation purposes
3. Off-air recordings may be made only at the request of an individual teacher not in anticipation of a teacher request.
4. If several teachers request the same program be recorded, duplicate copies may be made.

5. Off-air recordings may not be edited or combined with other recordings to create an anthology or a new work.
6. All copies must contain a notice of copyright as broadcast.

PART 5: Reproduction by Libraries & Archives

Section 108 of the Copyright Act applies to such activities as archiving; replacing lost, damaged or obsolete copies; requests for entire works; and interlibrary loans.

Archiving

The library may make no more than one copy or phonorecord of a work if:

1. The copy or distribution is made without any purpose of direct or indirect commercial advantage.
2. The collections of the library are either open to the public, or available not only to researchers affiliated with the library or with Allen Health System, but also to other persons doing research in a specialized field.
3. The reproduction or distribution of the work includes a notice of copyright.

Interlibrary Loan

The library may participate in interlibrary loans without obtaining permission provided that the total number of articles or items requested/received do not substitute for a periodical subscription or purchase of a work.

Periodical / Journal Articles

- Up to five articles may be copied from a single periodical in one calendar year.
- A library with a subscription for a periodical which is not immediately available may consider a copy obtained from another library as if made from its own collection.
- All ILL requests must be accompanied by a copyright compliance statement from the requesting library. The requesting library must maintain records of all requests and of their fulfillment. These records must be kept for three calendar years after the request has been made.

Books / Non-Periodicals

- No more than six copies of articles/chapters/small portions may be made from a non-periodical (including a book) during the entire term of copyright of the work.

For copying beyond the above guidelines, you may need to obtain copyright permission directly from the copyright holder or from a representative such as Copyright Clearance Center.

If the articles or items being copied have been obtained through a digital license, you must check the license to see under what terms and conditions, if any, interlibrary loan is permitted.

Replacing Lost, Damaged or Obsolete Copies

The library may make no more than three copies or phonorecords of a published work duplicated solely for the purpose of replacing a copy or phonorecord that is damaged, deteriorating, lost, or stolen, or if the existing format in which the work is stored has become obsolete (the machine or device necessary to view or use a work stored in that format is no longer manufactured or is no longer reasonably available in the commercial marketplace) if:

1. The library has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price; and
2. Any such copy or phonorecord that is reproduced in digital format is not made available to the public in that format outside the premises of the library in lawful possession of such copy.

Requests for Entire Works

The library may make one copy of an entire book or periodical if:

1. The library determines after reasonable investigation that an authorized copy cannot be obtained at a reasonable price.
2. The copy must become the property of the library user. The library must have no reason to believe that the copy will be used by the user for purposes other than private study, scholarship and research.

PART 6: First Sale

Section 109 of the Copyright Act permits the resale or lending of copies of works, providing the basis for library lending and the sale of used books.

- The lending of a lawfully made copy by a nonprofit educational institution to another nonprofit educational institution or to faculty, staff, and students is allowed (it does not constitute rental, lease, or lending for direct or indirect commercial purposes).
- The owner of a lawfully made copy may sell or otherwise dispose of the possession of that copy or phonorecord without the authority of the copyright owner.

PART 7: Classroom Performance & Display (including Distance Education)

Section 110 of the Copyright Act permits certain types of content use in the classroom. Some of the special copyright requirements of online distance learning are specifically addressed by the TEACH Act (Technology, Education, and Copyright Harmonization, 2002). The TEACH Act was developed to provide a similar experience for students enrolled in distance education programs to that of students in the classroom.

- The work must be shown in a classroom or similar place of instruction.
- The work must be used for face-to-face instruction with students.
- The work must be incorporated as part of the systematic teaching activities of the program in which it is being used.
- The work may not be used for other than planned, direct, instructional activities.
- The work may not be used for entertainment, fund-raisers or time fillers as these types of uses constitute public performances.
- The work must be a lawfully made copy.
- There is no charge for viewing the performance of the work.

Additional Distance Education requirements:

- The use must be limited to a specific number of students enrolled in a specific class.
- The use must either be for 'live' or asynchronous class sessions.
- The use must not include the transmission of textbook materials, materials typically purchased or acquired by students, or works developed specifically for online uses.
- A notice of copyright must appear on online materials.
- The institution must implement some technological measures to ensure compliance with these policies, beyond merely assigning a password. Ensuring compliance through technological means may include user and location authentication through Internet Protocol (IP) checking, content timeouts, print-disabling, cut and paste disabling, etc.
- Access to the content must be terminated at the end of the class term.

PART 8: Copyright Infringement & Deterrents

Federal law provides severe civil and criminal penalties for the unauthorized reproduction, distribution, or exhibition of copyrighted materials. Criminal copyright infringement is investigated by the Federal Bureau of Investigation. The penalties may depend on the amount and the willfulness of the infringing activity and can range from civil liability, criminal liability, money damages, including reimbursement of attorney's fees and costs. In a civil lawsuit, the penalty for copyright infringement can range from \$1,000 to \$30,000 per copyrighted work infringed. This penalty can be increased to \$150,000 per infringed work in cases of particularly flagrant infringement. In the most serious and widespread cases of copyright infringement, criminal prosecution is possible resulting in imprisonment of up to five years and fines of up to \$250,000 per offense.

PART 9: Getting Permission

When permission is needed make sure you are getting permission from the actual copyright holder. This is not necessarily the author; it is generally the publisher. Call or email the person, publisher or Webmaster to confirm copyright ownership. In instances where there are multiple copyright owners it may be necessary to obtain permission from all of them.

Clearly state your need and the use you will be making of all the parts of the work you want to use. For uses such as course packs, syllabi or reserves permissions may need to be obtained each semester the work is used. Although royalties vary dramatically, they are usually affordable.

When requesting permission, be sure to get it in writing and keep it on file. If you are uploading the material to the Internet and you have made a good faith effort to get permission but were unable to locate the owner, make a disclaimer to the effect that you will remove the material at the copyright owner's request.

See **PART 10: Resources & Tools** for links to websites that can help you identify copyright owners and obtain permission to use their works.

PART 10: Resources & Tools

CONTU Guidelines

Copyright Law of the United States (Title 17 of the United States Code)

Digital Millennium Copyright Act

Higher Education Opportunity Act

TEACH Act

Getting Permission

American Society of Media Photographers

ASCAP – American Society of Composers, Authors and Publishers

Association of American Publishers, Inc.

BMI – Broadcast Music, Inc.

Business Software Alliance

Copyright Clearance Center

Graphic Arts Guild

International Federation of Reproduction Rights Organizations

Motion Picture Association of America

National Writers Union

Software & Information Industry Association

Tools

Fair Use Guidelines Chart: <http://www.starr.net/is/fu.html>

Four Factor Fair Use Checklist:

https://lbis.kenyon.edu/sites/lbis.kenyon.edu/files/Fair%20Use%20Checklist_0.pdf

Know Your Copy Rights Handbook:

http://oldlibrary.westga.edu/~library/depts/access/Know_Your_Copyrights.pdf

REFERENCE:

Senate and House of Representatives of the United States of America. (2008). *Higher education opportunity act: Public law 110–315—Aug. 14, 2008*. Retrieved from <https://www.gpo.gov/fdsys/pkg/PLAW-110publ315/pdf/PLAW-110publ315.pdf>

United States Copyright Office. (2011). *Copyright laws of the United States*. Retrieved from <http://www.copyright.gov/title17/>

Allen College
Copyrighted Material Release Agreement Form

The copyright law of the United States (Title 17, United States Code) governs the reproduction of works of authorship. Copyright law provides a balance between the promotion of creativity by assigning rights to the creators which protect their work (Title 17, US Code) while at the same time facilitating public access to the copyrighted works (Fair Use). In general, works governed by copyright law include such traditional works of authorship as books, photographs, music, drama, video and sculpture, and also software, multimedia, and databases. Copyrighted works are protected regardless of the medium in which they are created or reproduced; thus copyright extends to digital works and works transformed into a digital format.

Copyrighted works are not limited to those that bear a copyright notice. Works published since March 1, 1989 need not bear a copyright notice to be protected under copyright law.

Instructor's Name: _____

Course Title and Number: _____

Semester/Year: _____

Material to be reproduced

Author's Name: _____

Title of Work: _____

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