

## **BRYANT UNIVERSITY COPYRIGHT POLICY**

### **UNAUTHORIZED COPYING AND DOWNLOADING IS PROHIBITED**

Bryant University strictly prohibits the unauthorized copying of copyrighted materials in all mediums. Such means include photocopying, unauthorized broadcasting, streaming and transmission of video and multimedia materials beyond the scope of license. Any person found to be illegally copying protected materials may face civil and criminal penalties under Title 17. Additionally, any party found to be infringing will face disciplinary action from the University which may include student or staff discipline. A “take down” policy has been implemented that allows the University to comply with a copyright owner’s demand that an infringer cease and desist from copying. This action is in accord with the Digital Millennium Act 17 U.S.C. § 102 et seq. as well as the Teach Act, 17 U.S.C. § 110 which require service providers to take action to insure proper copyright policies are in effect. Unauthorized downloading is unauthorized copying and this prohibition is independent of the form or medium, including but not limited to software, music, photographs, video, film, sound, graphics, text, and books. Any person copying, recording, duplicating, burning or otherwise exploiting any protected works of authorship may be removed from the University computer system and may further face civil or criminal penalties, and disciplinary proceedings.

#### **CONTACT PERSON**

The University has a contact person within the University Library for notice in the event of infringement, archival of materials under the Teach Act, and related concerns as to copyright policy. That person is Mary Moroney, Director of Library Services. She can be contacted at [mmoroney@bryant.edu](mailto:mmoroney@bryant.edu)

#### **BACKGROUND:**

All of the US Copyright Laws passed by the US Congress exist under Article 1, Section 8, Clause 8, of the United States Constitution, which gives Congress the power:

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writing and Discoveries.

Thus, the US Copyright Laws are specifically designed to promote creativity and the dissemination of knowledge by granting Authors certain exclusive rights to their respective Writing and Discoveries. Bryant University is dedicated to excellence in the creation and dissemination of knowledge. It is the policy and practice of Bryant University to respect the exclusive rights afforded to each Author and Inventor by US Copyright Laws under the US Constitution.

#### **TECHNOLOGICAL ADVANCES**

The University recognizes that Copyright has always balanced the right of the author creation and the public's right to use copyrighted materials. The founding fathers recognized the right from the ratification of the U.S. Constitution declaring in Article I Section 8 that Congress be empowered, "...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;..." In adopting the Copyright Act, Congress has balanced and continues to balance the promotion of technology with the protection of the author's rights. As expression transforms to various mediums the transforming role of the copyright act is often tested. Bryant University, in its role as an education community, both adheres to the requirements of the Act and provides this Policy as a guideline for the University Community fully vested in the Digital Global Age.

### **WHAT IS COPYRIGHT PROTECTION ?**

The courts and the Congress have long recognized that a rigid application of US Copyright Laws might stifle the very creativity that it was designed to foster. Therefore, certain limited circumstances exist that make limited copying permissible. It is the intent Bryant Copyright Policy to comprehend that limitation so as not to exceed it. The balance of interests between an Author and the knowledge needs of students, faculty and staff is a delicate one. The priority must always be to properly use all copyrighted materials in deference to the rights of each Author.

### **WHAT DOES COPYRIGHT PROTECT?**

Bryant University requires all members of the community to abide by US Copyright Law in all respects and recognizes the exclusive rights of the copyright owners to reproduce, distribute, perform, display, and make derivatives of their copyrighted works. To this end, Bryant monitors and adheres to all provisions of the Copyright Law of the United States as set forth in Title 17 of the U.S. Code. The University expressly prohibits unauthorized copying of copyrighted materials in all mediums and adopts this policy to aid the University Community in dealing with the use of Copyrighted materials.

### **COPYRIGHT OWNERS HAVE SIX (6) EXCLUSIVE RIGHTS**

1. TO REPRODUCE THE COPYRIGHTED WORK ;
2. TO PREPARE DERIVATIVE WORKS BASED ON THE WORK;
3. TO DISTRIBUTE COPIES OF PHONORECORDS OF THE COPYRIGHTED WORK TO THE PUBLIC BY SALE OR OTHER TRANSFER OF OWNERSHIP, OR BY RENTAL, LEASE, OR LENDING;
4. IN THE CASE OF LITERARY, MUSICAL, DRAMATIC, AND CHOREOGRAPHIC WORKS, PANTOMINES, AND MOTIONS PICTURES AND OTHER AUDIOVISUAL WORKS, TO PERFORM THE COPYRIGHTED WORK PUBLICLY; AND
5. IN THE CASE OF LITERARY, MUSICAL, DRAMATIC, AND CHOREOGRAPHIC WORKS, PANTOMINES, AND MOTIONS PICTURES, GRAPHIC, OR SCULPTURAL WORKS, INCLUDING THE INDIVIDUAL IMAGES

OF A MOTION PICTURE OR OTHER AUDIOVISUAL WORK, TO DISPLAY THE COPYRIGHTED WORK PUBLICLY; and  
6. IN THE CASE OF SOUND RECORDINGS, TO PERFORM THE COPYRIGHTED WORKS PUBLICLY BY MEANS OF A DIGITAL AUDIO TRANSMISSION.

Copyright infringement occurs when any one of the five exclusive rights are violated, unless the use is allowed by permissions from the Author or the use falls within a narrowly recognized permissible use as an affirmative defense sanctioned by Congress and/or the courts.

### **SUMMARY OF NARROWLY RECOGNIZED EXCEPTIONS**

Fair Use (17 USC 107): The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for class room use), scholarship, or research, is not an infringement of copyright.

Library's special exemption (17 USC 108): It is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work (or three copies to replace a destroyed, damaged or deteriorating, lost or stolen work, or if the existing format has become obsolete, if the library or archives has, after a reasonable effort, determined that a replacement cannot be obtained at a fair price; and any such copy that is reproduced is not made available to the public. )

First sale doctrine (17 USC 109): The owner of a copy or phonorecord lawfully made is entitled, without the authority of the copyright owner, to sell or otherwise dispose of that copy or phonorecord.

Educational performances and displays in the classroom (17 USC 110): Allows for the performance or display of copyrighted works in a face-to—face teaching in a classroom setting within a nonprofit educational institution. Performances and displays of copyrighted works that are allowed in classroom settings may also be used for digital distance educational purposes.

Software backups (17 USC 117): It is not an infringement of copyright for the owner of a copyright program to make an additional copy or adaptation of software if such new copy or adaptation is created as an essential step in the utilization of the computer program, or when such new copy or adaptation is for archival purposes and that all archival copies are destroyed in the event that the continuing possession of the computer program should cease to be rightful.

Modifications for blind and disabled (17 USC 121): It is not an infringement of copyright for an authorized entity to reproduce or to distribute copies or phonorecords of a previously published, non-dramatic literary work if such copies or phonorecords are reproduced or distributed in specialized formats for use by blind or other persons with disabilities.

These limitations on copyright owners' rights, and others not mentioned here, are critical to the achievement of copyright's purpose. They are illustrative of how copyright law protects author's rights as the incentive to publish, thereby increasing the knowledge base of our society.

If not within narrowly recognized exceptions: Get a license/permissions or do not use the work. In the event of uncertainty, the copyright agent in the University Library will assist and direct you.

## **FURTHER REVIEW OF NARROWLY RECOGNIZED EXCEPTIONS HAVING ACADEMIC EMPHASIS**

### **FAIR USE OF COPYRIGHTED WORKS**

Fair Use in Copyright is governed by 17 U.S.C. § 107. Fair use of the copyrighted work is allowed for such purposes as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research. Determination of Fair Use is on a case by case basis under Section 107 and in any particular case *four (4) factors* are considered;

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of a use upon the potential market for or value of the copyrighted work.

Bryant University recognizes that Fair Use does not provide a blanket permission to copy by educational institutions. Both Congressional Action and U.S. Supreme Court decisions affirm that the uses are extremely limited. Any analysis that is not clearly within the scope of Section 107 requires permission of the copyright owner before making copies or reproducing in any medium. The University librarian will direct you to permissions services. The Copyright Clearing Center <http://www.copyright.com>, is one source for obtaining permissions.

### **DIGITAL MILLENNIUM ACT: 1998**

Online service providers, including colleges and Universities providing network use to the University community have an obligation to remove infringing content from the University Computer Systems under 17 U.S.C. § 512. As a service provider the University, upon receiving notice of infringement will immediately notify a user of the alleged infringement and demand removal. If materials, found to be infringing, are not removed forthwith the University shall exercise its duty to take down the infringing materials and remove the user from his or her privilege of using the University network.

## **TEACH ACT AND DISTANCE EDUCATION: 2002**

Bryant University complies with the Teach Act. The Teach Act set forth in 17 U.S.C. § 110 allows transmissions of snippets of teaching content directly related to an integral part of a class session. The class assignment must be supervised by an instructor and any transmissions must be limited in scope and size. The act allows transmissions for face-to-face teaching activities. Broadcasting copyrighted materials from outside activities into the University community is strictly prohibited. Students may read aloud from copyrighted text materials, act out a drama, play or sing a musical work, perform a motion picture or filmstrip, or display text or pictorial material to the class by means of a projector. Nothing in the Teach Act limits the copyright owner's rights to make dramatizations, adaptations, or create derivative works under the act. Thus for such events permissions must be obtained. Transmissions of content for teaching and instructional purposes may be transmitted for the session in which the course is being taught. The materials shall be removed from the Bryant Computer System immediately following the term for which they are used. Those materials may be archived offline under the domain of the University library for future classroom use.

## **RIGHTS TO USE THROUGH LICENSE/PERMISSIONS**

The University recognizes that certain materials are licensed to the University Community for the proper use of authorized users. Prior to transfer, transmission, streaming, recording of any copyrighted materials over any medium including digital, video, electronic means must be in conformity with the license granted. Any person exceeding the scope of those license grants shall be subject to the same penalties as an unauthorized infringer.

## **RELATED LINKS**

For Information Services Guidelines please refer to <http://bryant2.bryant.edu/~cpmc/it/> For further information on the copyright act you may visit the U.S. Copyright Office at <http://www.copyright.gov/> Faculty and Staff can find policies directing procedures and use in the Bryant University Handbook. Student rights and obligations are set forth in the Bryant University Student Handbook.

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## POLICY IMPLEMENTATION GUIDELINES:

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***Videotaping:*** A program may be taped on a VCR, disk or other digital format for the purpose of time-shifting. This allows a viewer of television to record and play the program at a later time. The viewer is not allowed to otherwise reproduce or transmit materials without acquiring permissions or license rights.

***Distance Learning:*** Bryant University Faculty and registered students may use copyrighted materials within the classroom setting and transmit them for distance learning provided they are reasonable and limited portions of the work. This use must constitute an integral part of the class session. The use of the work may mirror the use of the work in a face to face classroom setting. The Teach Act expands the fair use doctrine to the right to display for distance learning at non-profit educational institutions. After transmission the work must be retained only long enough to reasonably transmit the lecture materials. A complete lecture may be retained for future use provided it is archived and removed from the University computing system when the materials have been disseminated to the students.

***Photocopying:*** Copying a protected work of expression may infringe the owner's copyright. Any use of copy machines, computers, scanners or other devices by students, faculty or staff for an infringing use may result in criminal or civil penalties under the copyright law of the United States. Photocopying for classroom use is allowed under very limited circumstances. The copying must be limited to one course at the University. It must be brief; not more than one short poem, article, story, essay or two excerpts may be copied from a single author. A collected work is protected as a compilation under copyright law. Not more than three works from a collection or periodical may be copied during one class term without the author's permission. Current news periodicals are exempt from this limitation. For instructional purposes a teacher may make a single copy of a book chapter, a newspaper article, a periodical, a short story, a short essay, a short poem, or a graph, diagram, cartoon or picture from a book, newspaper or periodical without the necessity of obtaining permissions. The use is limited to teaching, scholarly research, or class preparation.

***Downloading:*** Downloading of music is limited to the license granted. You may not download music and retransmit it over any medium unless you have a license that allows multiple transmissions, whether for profit or for free. Streaming video and unauthorized downloading as well as peer to peer unauthorized downloading by any member of the University Community is prohibited.

***Library Use and Permissions Requests:*** Requests for copies and use of materials will only be granted in conformity with the copyright act. The library staff has the right to deny patron requests to copy when inappropriate. The library will direct its patrons to the proper sources to seek author's permission to use copyrighted works. The request shall be the responsibility of the patron and not the library staff.

***Video Clips:*** Video clips and other reasonable and limited portions of dramatic literary, musical, or audiovisual works may be used for face to face classroom teaching. You may not incorporate into presentation materials commercial works, such as commercial movies, where you do not have a license to retransmit the commercial work or permission to do so.

***Works Used in Different Mediums:*** Works that are transformed from one medium to another require permissions for each use. For example a photograph may not be copied and displayed outside of a book absent permission of the copyright holder. Licensed software may not be displayed in digital format without the permission of the copyright holder or a permissible license grant. Users of copyrighted materials in the Bryant University community are prohibited from using Bryant facilities or property in a manner that exceeds the scope of the copyright owners permitted use.

***Course Packs:*** Bryant University expressly prohibits the sale or distribution of compilations of copyrighted full length works into “course packs,” absent the express written consent of all the copyright holders’ grant of license to sell, and distribute such materials in anthology form. Single copying for classroom use or reserve is allowed if done in the manner prescribed by Congress for minimal educational fair use standards, as set forth in the Copyright Act. These guidelines are available in the University library.

***Multi-Media Labs:*** University labs require permissions of copyright owners before transformation of copyrighted materials into new mediums, subject to the reasonable allowances made for preparation of classroom face to face teaching materials. Use of the labs by the University Community is a privilege. Any unauthorized use of the labs for unauthorized copying into any medium is prohibited.

***Computer Software:*** Software used over the Bryant University system must be licensed to the user. A computer program owner or licensee may make one copy of each program for archival purposes. Permitted uses are contained within the license to each software product. Software cannot be copied or transferred except as provided by the license. Transfer of a software license requires the consent of the licensor.

***Warning and Take Down Policy:*** In the event a Bryant University User is found to be infringing, the user will be immediately warned of the alleged infringement. Failure to cease and desist from any and all infringing action will cause the IT Department to “take down” the user from the Bryant University network and the user’s privilege to use the network will be terminated in accordance with Bryant University’s obligations under the Digital Millennium Copyright Act.