

Lenoir-Rhyne University
General Statement on Copyright Policy
(Established: Fall 2001; Last Reviewed and Revised: Summer 2017)

Lenoir-Rhyne University is dedicated to adhering to copyright law. Consequently, the University urges all members of the LR community to become familiar with the principles and rules which govern use of works protected by copyright. LR strictly forbids the illegal uploading and downloading, and unauthorized distribution of copyrighted materials using the institution's information technology system, which includes peer-to-peer filing sharing of music, videos, books, or other copyrighted materials. In addition to civil and/or criminal penalties imposed by the legal system, LR may subject LR community members to additional disciplinary sanctions for violation of these policies, suspend internet access through the University's informational technology system, or other measures deemed necessary to stop unlawful infringement. Sanctions may range from verbal warnings (with the expectation that such behaviors will cease) for first and/or relatively minor offenses, to termination of employment or student expulsion in especially egregious and/or continually repeated violations.

What is "copyright" and who cares?

The right to make copies of another's work is severely restricted in the United States and throughout the world. By securing the benefits of ownership to creators of intellectual property, the government encourages production and dissemination of socially valuable creations. Unauthorized use of another person's intellectual property is a form of theft which discourages creativity.

Violation of copyright law carries substantial penalties. Civil and criminal penalties can be imposed for copyright infringement, including award of actual and punitive monetary damages. When a member of the LR community infringes copyright, s/he may also be exposing to liability the University and associated businesses.

However, complying with copyright law is often difficult because of the complexity of the rules which govern how and when one can use intellectual property owned by another person or organization. Sometimes, individuals may steal others' intellectual property without knowing it. At the same time, persons should not be deterred from using the work of others simply because they are uncertain about what is copyrighted, what constitutes "fair use," and how to get permission to use copyrighted works.

What works are protected by copyright law?

Copyrightable expression is original authorship, fixed in a tangible medium of expression. By this standard, mere facts and ideas cannot be copyrighted. In addition, works created by Federal government employees, titles and short phrases, and works in the public domain are not protected. Among the types of work protected by copyright are literary productions, musical notation and recorded music, pictures and graphics, motion pictures and video footage, databases, Web pages, and computer programs.

Just because a work is out-of-print or "old" does not mean that it is unprotected. Similarly, absence of a statement that the work is copyrighted does not mean that one is free to use it. One should assume that all material is copyrighted unless its source states clearly that it is not.

Copyright matters related to computers and computer network raise complex issues, e.g., transfer of works from one medium to another. In general, one cannot transfer a substantial portion of a work from one to another medium without getting permission from the copyright holder. Consequently, transferring without permission a musical recording to the soundtrack of a digital recording or to a CD-ROM violates copyright law. (Further details regarding digital materials are outlined below.) In addition, one cannot assume that every work which appears on the Internet is in the public domain. Displaying an image or file on the Internet is equivalent to displaying it on television, in an art gallery, or in print; only the copyright holder has this privilege.

What is "fair use" ?

Persons do not need to get permission for all uses of copyrighted work. The law permits use of a portion of a work without the copyright owner's permission for purposes such as teaching, scholarship, research, criticism, and comment. Four criteria must be considered when determining whether one is making "fair use" of a copyrighted work: (1) one's purpose, including whether it is commercial or not-for-profit educational use; (2) the nature of the work itself; (3) the percentage of the work used; and (4) the effect of the use on the work's market value. (Users are responsible for knowing the guidelines for Fair Use.)

These criteria allow instructors to distribute in their classes portions of works which are protected. Instructors generally don't need permission to display copyrighted works in their classrooms, to distribute some portions of such works to their students, or to engage in one-use only copying. In addition, there are many "educational use exemptions" that allow the performance or display of copyrighted work during face-to-face teaching activities in a nonprofit educational institution.

However, LR employees and students are not exempt from copyright laws simply because they are putting copied material to educational use, or because they are not selling or profiting from the distribution of copyrighted works. One's use must meet specific tests of brevity, spontaneity, and cumulative effect. One should never copy works in order to replace or substitute for published anthologies, compilations, or collected works.

What constitutes permission and how do you get it?

All members of the LR community are required to obtain permission to use a copyrighted work when its use falls outside the standards of "fair use" and "educational use exemptions." Permission must be secured from the current copyright holder, which may not be the author or the publisher identified in the work. Permission must be in writing.

In order to get permission, one should contact the copyright owner, saying exactly what one wants to copy, the number of copies to be made, and whether the material is to be used alone or in combination with other material. Such requests should generally be directed to the publisher's Rights and Permissions Department. In case the publisher is not the copyright holder, or does not have the right to authorize a particular use, one usually will be directed to the correct person or agency.

One should remember that no response is *not* equivalent to a positive response. If one does not hear from an author or publisher from whom one has requested permission to use a copyrighted work, one simply does not have permission.

Because computer software falls under copyright law, faculty, staff, and students must be aware of the specific licensing agreements which control copying programs. A program user should consult the license agreement to determine whether copying a particular program is permissible. One is usually allowed to create only a backup copy.

Where can I find answers to specific copyright questions?

In addition to discouraging copyright infringement, LR wants to make available in its classrooms the best information available. In order to prevent conflict between legal restrictions and effective teaching, LR provides a wide variety of information resources about copyright. Librarians can direct LR community members to resources which might answer particular questions. Persons with inquiries may access online <http://www.copyright.gov/> (and especially the FAQ at www.copyright.gov/help/faq).

Who to Contact?

A perceived copyright violation on any LR website should be reported to the University Provost (on matters regarding possible academic violations), to the Assistant Provost and Dean of Student Life (on

matters associated with alleged student violations that do not refer to academic activity) or to the appropriate Division Head (on issues associated possible staff violations related to these policies).

Digital Millennium Copyright Act (DMCA)

What is the DMCA?

The Digital Millennium Copyright Act (DMCA) is a United States copyright law that implements two 1996 treaties of the World Intellectual Property Organization (WIPO). It criminalizes production and dissemination of technology, devices, or services intended to circumvent measures (commonly known as digital rights management or DRM) that control access to copyrighted works. It also criminalizes the act of circumventing an access control, whether or not there is actual infringement of copyright itself. In addition, the DMCA heightens the penalties for copyright infringement on the Internet.

Information about the details of the DMCA and all its titles is plentiful and can be found on the Internet. The purpose of this page is to provide information about the University's procedure for handling the receipt of "take down" notices regarding copyright infringement and to inform users about the escalating consequences that take place with repeated violations.

Lenoir-Rhyne's policy is based on its qualification under a provision of the act (Title II: The Online Copyright Infringement Liability Limitation Act, or "OCILLA") that creates a safe harbor for online service providers (OSPs, including ISPs) against copyright liability if they adhere to and qualify for certain prescribed safe harbor guidelines and promptly block access to allegedly infringing material (or remove such material from their systems) if they receive a notification claiming infringement from a copyright holder or the copyright holder's agent. *Wikipedia, http://en.wikipedia.org/wiki/Digital_Millennium_Copyright_Act#Title_II:_Online_Copyright_Infringement_Liability_LimitationAct*

"Take Down" Notice Process

Lenoir-Rhyne University does not monitor user activity nor does it play a part in identifying material that may have been acquired in violation of copyright. Lenoir-Rhyne is legally responsible for acting on the receipt of notices received from authorized agents.

Lenoir-Rhyne receives notices from authorized agents. The notice provides an IP address as well as date and time of the infringing event. ITS Network Administrators determine the user from the IP address. At that time, the infringement notice is forwarded directly to the user. An original of the email is maintained. The user is placed into quarantine and loses network access.

Unauthorized Distribution of Copyrighted Material

Lenoir-Rhyne strictly prohibits the illegal uploading and downloading, and unauthorized distribution of copyrighted materials using the institution's information technology system, which includes peer-to-peer file sharing of music, videos, books, or other copyrighted materials. The unauthorized distribution of copyrighted material may subject students, faculty, and staff to civil and criminal liabilities. In addition to penalties imposed by the court, Lenoir-Rhyne University may subject you to disciplinary sanctions as set forth below for violating this Policy, suspend your internet access, or take any other measures deemed necessary to stop the unlawful infringement.

FIRST VIOLATION:

Students: lose network access and must report to Help Desk to have the infringing material removed from their system. Once the infringing material is removed, network access is restored.

Staff/Faculty: lose network access and must contact the Help Desk to have the infringing material removed from their system. Chief Information Officer and user's supervisor is notified. Once the infringing material is removed, network access is restored.

SECOND VIOLATION:

Students: referred to Assistant Provost and Dean of Student Life. Once the student has met with the Dean and the infringing material is removed, network access is restored.

Staff/Faculty: referred to Human Resources or Provost, as appropriate. These offices will advise ITS as to restoration of network access.

THIRD AND SUBSEQUENT VIOLATIONS:

Students: referred to Student Conduct Council including timeframe of restoration of access.

Staff/Faculty: referred to Human Resources or Provost as appropriate including timeframe of restoration of access.

Loss of access is part of all violations.

Civil and Criminal Penalties

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. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees to the infringer (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 more information, please see the Web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ's at www.copyright.gov/help/faq.