

Responsible Officer: Dean of Student Engagement
Approved By: President's Cabinet

Effective Date: February 5, 2016

See also: KGI Policy 001 Code of Conduct
KGI Policy 280 Appropriate Use of Campus Computing and Network Resources
School of Pharmacy Student Handbook: Honor Code
SALS Student Handbook: Honor Code

POLICY 583 KGI COPYRIGHT POLICY (students)

This policy applies to all students of Keck Graduate Institute (KGI).

PURPOSE OF POLICY

This policy communicates to students KGI's expectations for protection of intellectual property and the policies and sanctions related to copyright infringement under U.S. Copyright Law. KGI is committed to respecting intellectual property rights, including the rights of copyright holders in compliance with copyright laws. KGI recognizes that the exclusive rights of copyright holders are balanced by limitations on those rights under federal copyright law, including the right to make a fair use of copyrighted materials and the right to perform or display works in the course of face-to-face teaching activities.

All KGI students are required and expected to obey the laws and KGI policies and legal agreements governing use of software, downloading of copyrighted music and video files, and copying of other copyrighted materials. Unauthorized distribution of copyrighted material using the KGI information technology system, including illegal or unauthorized peer-to-peer file sharing, can lead to monetary damages and/or criminal penalties for the individual violator. Because such violations are against KGI's Code of Conduct (POL 001), KGI's Policy on Appropriate Use of Campus Computing and Network Resources (POL 280), the Student Honor Codes for each School and this KGI Copyright Policy, disciplinary action will be taken as appropriate.

I. KGI PROTECTS COPYRIGHT AS DEFINED BY FEDERAL LAW

- A. KGI Respects Copyright Protection of original works of authorship.** Keck Graduate Institute (KGI) requires that students follow copyright law as a condition of their relationship with the institute, including student employment.
- B. Copyright provides wide ranging protection.** The US Copyright law, Title 17 USC, Section 102, protects *original works of authorship* sculpture, visual art, etc., such works can also include visual and/or audio recordings, software coding, digital imagery, websites and writings such as scientific texts, fictional work, instructional narratives, scripts, designs, and combinations of any of these. To use another's original work protected under the owner's exclusive rights, an individual must obtain the owner's permission.
- C. Exceptions are specified by law.**
 - a. An important exception is works produced by the U.S. Government: works published by the U.S. Government are not subject to copyright laws.
 - b. Use of copyrighted material in the Classroom may be exempted (see section II, below)
 - c. "Fair use" of copyrighted material may be exempt. (See section II, below)
- D. Original works are copyright protected without formal government recognition.** Original works are protected automatically, without needing a copyright notice or being registered with the U.S. Copyright Office. Plagiarism can be a form of copyright violation.

E. Copyright does *not* apply to:¹

- **Procedures, processes, systems, methods of operation**
These qualify for protection and ownership under patent law, and patent and copyright do not usually overlap.
- **Ideas, concepts, principles, or discoveries of natural phenomena**
Broadly speaking, these cannot be owned under any form of U.S. intellectual property law. This reflects important values about intellectual freedom and encouraging innovation.
- **Titles, names, short phrases and slogans; familiar symbols or designs, mere variations of typographic ornamentation, lettering, mere listings of ingredients or contents**
These are considered to fail the requirement of originality.
- Other **unoriginal or unfixed** works

Resources for more information on copyright can be found on the U.S. Copyright Office website.²

- F. Copyright endures minimally for the life of the author.** Copyright protection lasts many decades: the basic term is the life of the author, plus seventy years, and for “works made for hire”, the copyright endures for the lesser of 95 years from publication or 120 years from the work’s creation.
- G. Employee authorship may be considered “work for hire” for which copyright vests in KGI.** The original works and materials produced by student employees of KGI for KGI purposes and during work hours are considered “works for hire,” which means unless specifically exempted, the copyright belongs to KGI.
- H. Students own the copyright in their original work.** Students own copyrights in original work, even class assignments, as well as original scholarship, but do not own a copyright in recordings of class sessions, which are considered derivative works.
- I. Rights of a copyright owner.** A copyright owner is entitled to do, or authorize others to do, the following things: [17 U.S.C. § 106](#)
- **Make copies** of the work
 - **Distribute copies** of the work (by selling, renting, lending, or giving it away)
 - **Perform or display** the work publicly
 - **Make derivative works**, like translations, adaptations, and reinterpretations

A copyright owner can give some or all of those rights to other people or entities, by transferring ownership or granting licenses. Ownership or license rights can be shared by any number of people or entities.

- J. Caution should be exercised in downloading, uploading, and using computer technologies.** Multiple computer technologies (i.e., software and hardware) currently make it easy for copyright infringement to occur, and such infringements may take place unawares through use of file sharing programs and access to the Internet. Applications such as KaZaA, Gnutella, Morpheus, LimeWire, Gnucleus, Bearshare, Aimster, iMesh, Vuze, and others, make it easy to download music or videos, which are usually protected by U.S. Copyright law. Further, these programs typically operate in two directions, both as download agents, and as upload agents to share resources with other interested individuals. Oftentimes, the uploading takes place simultaneously as the download, as well as continuing

¹ [U.S. Copyright Code, 17 U.S.C. § 102\(b\)](#)

² What Does Copyright Protect? <http://www.copyright.gov/help/faq/faq-protect.html>; Copyright Protection Not Available for Names, Titles, or Short Phrases <http://www.copyright.gov/circs/circ34.pdf>

as long as the application is running, the computer is on, the connection to the Internet is active, and the files are on the computer. The infringement that takes place in these circumstances is not singular, restricted to the single download; instead, it becomes multiple infringements, due to multiple shares. In a court of law, the individual will have broken the law multiple times, thus becoming a criminal on multiple accounts.

II. COPYRIGHT LAW EXEMPTIONS RELATED TO EDUCATIONAL USES

Using copyright protected materials requires permission from the copyright holder, or the use may qualify as an *exemption* to the law, or as a *fair use*. Copyright law places a high value on educational uses.

- A. Classroom use exemption for media use.** The Classroom Use Exemption ([17 U.S.C. §110](#)) only applies in very limited situations, but where it does apply, it gives clear rights. For the exemption to apply, the user must be in a classroom, in person, engaged in face-to-face teaching, and at a nonprofit educational institution, such as KGI, where the media *is played*. The exemption authorizes performance or display, not the distribution of copies. This exemption permits instructors or students the right to play movies or music at any length, as long as the media being used is legitimate and not an illegal copy. Classroom use does **not** extend outside the physical classroom **nor** to online classes.
- B. Fair Use Exceptions to use of copyrighted materials.** Potential users of copyright protected materials may be able to make *Fair Use* of copyrighted materials by reproduction in copies or other means specified by section ([17 U.S.C. §106](#)), for “purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research,” which is not considered an infringement of copyright. ([17 U.S.C. §107](#)). Through fair use, certain kinds of uses are allowed, without permission or payment, even in the face of an explicit denial of permission, at any point during the copyright term. There are four factors to fair use, and each factor with each possible use of an existing work must be considered individually in detail, along with all other factors: *no one factor is decisive in determining whether a use or intended use meets fair use law*.

17 U.S.C. §107

- (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 the use upon the potential market for or value of the copyrighted work.

Resources to guide use of copyright protected materials under fair use law:

- <https://www.lib.umn.edu/copyright/fairuse>
- <https://www.lib.umn.edu/copyright/fairthoughts>

III. COPYRIGHT INFRINGEMENT: DISCIPLINE, DAMAGES AND PENALTIES

- A. Infringements of copyright in the course of completing KGI academic assignments are subject to academic discipline, as provided in the Student Handbooks regarding violations of the Student Honor Codes.** These provisions are posted on the KGI website (<http://www.kgi.edu/current-students/student-services/student-handbook>.) Discipline may be imposed irrespective of whether the copyright owner is aware of the infringement.

B. Use of computer networks of KGI or other Claremont Colleges in a way that infringes copyrights, is prohibited and is subject both to federal penalties and to discipline under KGI Policy 280, Appropriate Use of Campus Computing and Network and Student Honor Codes.

If KGI or the Claremont Colleges become aware of inappropriate use of network resources for copyright infringement by a KGI student, KGI will investigate and take appropriate action concerning the alleged violation.

When any of the Claremont Colleges receives a formal DMCA complaint from legal authorities who represent copyright holders stating that computers on the college network are involved in unlawful distribution of copyrighted materials, the respective college where the alleged infraction took place is notified and required to take action under the terms of the DMCA. If an individual is suspected of infringement, that person will receive a notice from the college about the matter. These individuals may face consequences related to their student employment, to their continuing use of KGI and CUC computing resources and/or their academic standing and eligibility for student aid, as provided in student handbooks and KGI Policy 280. They also may face civil and criminal penalties, as explained below.

C. Copyright owners may seek monetary damages for copyright infringement. If a copyright owner discovers that someone has infringed a copyright, the owner can seek monetary damages through legal proceedings. While the copyright owner can provide permission for another person to exercise the owner's exclusive rights, copyright law limits the owner's exclusive rights, allowing fair use of any work for educational, scholarly, and informational purposes. This means whenever fair use applies, the law does not require the copyright owner to grant authorization in order for another person to copy or distribute the copyright owner's work. Explanation of *fair use* is provided in greater detail in a following section.

D. Civil Penalties are specified by Federal Law. An individual found liable for copyright infringement under federal law may be ordered to pay either:

- Actual damages suffered as a result of the infringement along with any profits of the infringer attributable to the infringement that are not already taken into account in computing the actual damages, or
- "Statutory" damages between \$750 and \$30,000 per work infringed.

In the case of a "willful" infringement, a court may award up to \$150,000 *per work infringed*. (See 17 U.S.C. §504.) Courts also have discretion to award costs and attorneys' fees to the prevailing party. (See 17 U.S.C. §505.)

E. The federal Digital Millennium Copyright Act provides for prosecution of digital infringements.

Under the terms of the Digital Millennium Copyright Act (DMCA), law enforcement agencies, the Recording Association of America (RIAA), and copyright holders of digital media actively monitor the Internet for such infringements, and have taken aggressive action against criminal infringements under 17 U.S.C. §506 and 18 U.S.C. §2319, including actions against students for downloading and peer-to-peer sharing.

F. Criminal penalties are available under Federal Law. Willful copyright infringement can result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense. Criminal penalties may vary depending on the nature of the offense and whether the infringer has previously been convicted of criminal copyright infringement under 18 U.S.C. §2319. (See 17 U.S.C. §506 and 18 U.S.C. §2319.)

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