

Copyright Infringement Policies and Sanctions

What is Copyright?

Copyright is a form of protection provided by the laws of the United States to the authors or creators of “original works of authorship fixed in a tangible medium of expression.” Works of authorship include literary, musical and dramatic works; pictorial, graphic, sculptural and architectural works; motion pictures and other audiovisual works and sound recordings. Materials used in connection with courses taught at ICO may be subject to copyright protection.

Fair Use

The basis of the Fair Use doctrine rests on the assumption of good faith. There are 4 considerations of good faith listed below which are used to determine whether material can be copied **or whether printed material, motion picture media, illustrations, or photographs** can be used legally.

Consider:

- The purpose and character of the use.
- The nature of the copyrighted work.
- The amount to be reproduced.
- The economic effect of use on the potential market value of the copyrighted work.

Guidelines for Printed Material

The Fair Use guidelines for printed material allow students to make a single copy of an item for scholarly research, for teaching purposes, or for preparation to teach a course. In addition, one copy of an item may be made per student if it is used only once and by only one teacher. The copy may be reused only if written permission is received from the publisher. Tests of brevity, spontaneity, cumulative effect, and classroom use should be considered in determining Fair Use. Fair Use does not apply to consumable materials such as: worksheets, standardized tests, lab manuals that student enter data into, etc., as consumable materials are protected. These consumable materials are *excluded from Fair Use, may not be copied and need to be purchased.*

All copies should include a notice of copyright or sources should be cited if ICO owns or licenses the content.

Guidelines for Use of Electronic and Audiovisual Material

Electronic and Internet Use, Copying and Downloads

Material published to, and downloaded from, the Internet is usually protected by copyright laws and is subject to the same **Fair Use** guidelines as other copyrightable works. The following guidelines should be followed:

- Anything posted on the Internet **should be** considered published and under copyright protection.
- A posting may be copyrighted, even if a copyright notice is NOT included in the posting.
- In like manner, **you may not post** a previously published article, poem, etc. on a bulletin or web page without citing it. This constitutes publishing a previously copyrighted work without permission.
- To share an electronic resource for clubs or other reason, it is legal to send the link to the item in an email. It is not legal to attach the document and send it to multiple email accounts without permission of the copyright owner or without citing it if ICO owns or licenses the content.
- Knowingly writing, copying, coding, compiling, storing, deliberately transmitting or transferring malicious software codes to include viruses, worms, and macro viruses that may damage hardware or software by sending it over the Internet is against the law.
- Recorded lectures which may contain copyrighted material are only for the use of students enrolled in the associated course for purposes associated with that course and may not be retained or further disseminated.”
- Movies and videos are copyrighted and should not be downloaded without paying the copyright fee. An exception is if ICO has purchased or licensed that content.

Digital Images

Examples of digital images include the following:

- Images that represent a particular pixel or part of the image.
- Graphics are encoded equations and/or algorithms which represent lines and curves.

Digital images of previously copyrighted visual materials may be used as follows:

ICO Students

- Students may use digital images in an academic course assignment such as a term paper, thesis or in fulfillment of graduation requirements. Citations and/or attributions are needed.
- Students may publicly display their academic work incorporating images in courses in which they are enrolled and during formal critiques at a non-profit educational institution. Citations and/or attributions are needed.
- Students may retain their academic work in their personal portfolios for later uses such as, college/university, graduate school and/or employment applications.

Software

Computer programs are also protected under intellectual property copyright laws. The following guidelines should be followed by ICO students:

- Non-network software **must not** be installed on networks.

- Software should NOT be lent to others, especially for illegal duplication or personal use.
- Programs **are not** to be installed on multiple computers unless expressly authorized by the license.
- The unauthorized duplication of software constitutes copyright infringement regardless of whether it is done for sale, for free distribution or for the copier's personal use, and it is NOT permitted.
- Computer programs **do not** fall within the protection of **Fair Use** guidelines since the need to copy the entire program **would not** pass the brevity test.

Multimedia Presentations

ICO students have certain **Fair Use** rights when they create multimedia projects as part of a systematic learning activity. Please note that these rights only apply to the use of materials that have been *lawfully acquired to begin with*, (purchased or licensed by ICO or permission has been given), and only to projects that incorporate original material, such as notes or commentary.

DVDs/CDs/Videotapes

Copyrighted, prerecorded DVDs, CDs, and videotapes **may be used** for educational purposes, provided a performance meets **all** of the following criteria:

- A **legal** copy of the program is used.
- The performance must take place in a classroom in a not-for-profit educational institution.
- It is shown for instruction.
- It is used as part of a face-to-face teaching activity.
- It is used for instruction and **not** as a reward, entertainment, nor extra-curricular activity.

Sound Recordings

All forms of copyrighted sound recordings, (records, cassettes, sound tracks and CDs), are subject to the same criteria as other forms of audiovisual materials. ICO Staff may take advantage of the educational exceptions to the public performance regulations. The following must be considered:

- You must be using the recording in a face-to-face classroom instructional situation, led by a teacher or student using a **legally acquired** sound recording.
- Sound recordings **may not** be duplicated, even for archival purposes, unless they have been **purchased with duplication rights**.
- **Additional** copyright clearance requests must be submitted for the music, the lyrics and the performance for use in school situations.
- Transferring a sound recording from one format to another is prohibited (i.e. making a cassette from a CD).
- Downloading music without payment of a copyright or licensing fee is illegal.

Public Domain Works and Other Works Not Protected by Copyright

Copyright extends to "original works of authorship" that are embodied in some fixed form. This could mean anything from a photograph to a lesson plan to a digital image stored on a computer's hard drive. At the same time, there are some items that are **not** covered by copyright protection. In particular, copyright protection does not extend to the following:

- Works such as improvisational speeches and choreographic works that have not been fixed in a tangible form of expression.
- Titles, names, short phrases and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering or coloring; listings of ingredients or contents.
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries or devices. NOTE: A description, explanation or illustration of any of these might still be copyrightable.
- Works that consist **entirely** of information that is common property and contain no original authorship (i.e. standard calendars or height and weight charts).
- Works created by the United States Government.
- "Public Domain" works for which copyright protection has expired. Today, copyright protection is expired on works that were published prior to the year 1923.
- "Public Domain" protection also lasts for the life of the author plus 70 years; or for anonymous or pseudonymous works, the shorter of 95 years from publication, or 120 years from creation. For works published before 1978, copyright protection lasted 28 years and could generally be extended to a total of 75 years, an extension which has since been made automatic for many works and increased to 95 years as well. Since 2003, unpublished works of authors who died 70 years before will enter the public domain.

Creative Commons

Creative Commons is a vehicle that allows copyright holders to share their works. It is not a substitute for copyright, but rather, is a licensing model that works in tandem with existing copyright laws. Creative Commons was developed as a means to facilitate the exchange and sharing of ideas and creative content without the need to directly seek the copyright holder's permission to do so. When copyright holders identify their works as part of the Creative Commons network, they are relinquishing part of their right to their works while reserving others.

There are six possible ways in which a copyright holder can release some of their rights to their works while reserving others. The common denominator between all licenses is the provision of credit to the original copyright holder. The Creative Commons logo is displayed in works that use any of the Creative Commons licenses.

Citing Copyrighted Sources

Respect the Rights of the Authors!

ICO students are reminded to cite their sources and display the copyright notice and copyright ownership information (if applicable) as it is shown in the original source. This includes all

works incorporated as part of the educational multimedia projects they prepare, including those prepared under **Fair Use**. In order to appropriately credit the source, ICO students must do the following:

- Adequately identify (cite) the source of the work, giving full bibliographic description when available, including author, title, publisher and place of publication. ICO uses the APA format.
- Copyright ownership information should include the copyright notice, year of the first publication and name of the copyright holder.
- The credit and copyright notice information may be combined and shown in a separate section of any educational multimedia project.
- Images incorporated into a project **must** be cited or have the copyright notice and the name of the creator of the image incorporated **into** the image when available.
- Credit and copyright notice information is considered "incorporated" if it is attached to the image file and appears on the screen when the image is viewed.

When and How to Obtain Permission

By weighing the four (4) factors of the **Fair Use** guidelines, (see "Fair Use" section above) ICO students may be able to determine use exceeding the limitations. If there is any question of infringement, **OBTAIN PERMISSION!** In some cases, the publisher may require a fee or royalties. In these instances, ICO students should consult with their direct supervisors/division heads or with Library staff members.

Summary

1. The need for educational resources never justifies violating copyright laws.
2. ICO students **may not** copy or download in order to avoid the purchase of books, reprints, music, periodicals, software or media, etc.
3. ICO students **may not** be directed to make illegal copies or to violate copyright laws on behalf of a faculty member or higher authorities.
4. ICO students **may not** make copies of copyrighted originals owned by other schools, unless expressed written permission to do so is granted.
5. Copyright law is not static. Older guidelines are always subject to revision and new guidelines will gradually win acceptance. As new or revised guidelines are introduced, ICO will review their applicability, revise this section of the Student Guide as needed, and inform its administrators, faculty, staff and students of any changes.

Penalties for copyright infringement

Summary of Civil and Criminal Penalties for Violation of Federal copyright Laws

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement. 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 or 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 attorney’s fees. For details, see Title 17, United States Code, Sections 504, 505.