

**Responsible Official:** Vice President for Academic Affairs

**Responsible Office:** Office of the Vice President for Academic Affairs

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**Website Address:**

<https://myumo.moc.edu/services/ir/Policies/Public%20Policies/FairUseCopyright.pdf>

# FAIR USE AND COPYRIGHT POLICY

## POLICY STATEMENT

The 1976 Copyright Act gives the owner of a copyrighted print work the exclusive right to copy, distribute, display, or create derivatives of the copyrighted work. How long copyright protection endures depends on when, and how long ago, the work was created and/or published. Any question about copyright protection and possible exceptions should be directed to Moyer Library.

A copyright owner's exclusive right to the copyrighted work may be temporarily overridden by an exception known as "Fair Use." Fair Use allows an educator to copy and use copyrighted print materials for limited educational purposes, under certain circumstances, without the prior permission of the copyright holder. The University's Department Chairs should monitor Fair Use within their respective departments.

## REASON FOR POLICY/PURPOSE

The University of Mount Olive is committed to providing an environment that supports the learning, teaching, scholarship, and creative activity of its faculty, students, and staff. Within this context, the Intellectual Property Rights Policy is intended to:

- acknowledge and preserve the traditional property rights of scholars with respect to products of their intellectual endeavors (e.g., books, articles, manuscripts, plays, writings, musical scores, and works of art): and,
- guide policy and process for commercial uses of intellectual property other than the traditional products of scholarly work.

This Policy covers all types of intellectual property, including, in particular, works protected by copyright, patent and trade secret laws. Although the following list is not exhaustive, it provides examples of the kinds of work the Policy addresses: inventions, discoveries, trade secrets, trade and service marks, writings, art works, musical compositions and performances, software, literary works, and architecture.

## OPERATIONAL DEFINITIONS

**Scholarly work** – Includes books, articles, manuscripts, plays, writings, musical scores, and works of art.

Substantial Use – When the use of equipment, services, or resources entails a kind or level of use not ordinarily available to all, or virtually all, faculty, staff and/or students. See also the section below entitled “What is meant by substantial use?”

## POLICY/PROCEDURES

### Copyright and Fair Use of Print Materials

The University of Mount Olive seeks compliance with the 1976 Copyright Act’s Fair Use provisions, and to this end the University abides by the following Fair Use guidelines:

1. Single Copying for Teachers: Under Fair Use, a single copy may be made of any of the following, by or for a teacher, for scholarly research or use in teaching:
  - a. A chapter from a book;
  - b. An article from a periodical or a newspaper
  - c. A short story, short essay or short poem, whether or not from an anthology; and,
  - d. A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.
2. Multiple Copies for Classroom Use: Fair Use permits multiple copies (not to exceed more than one copy per student per course) for classroom use or discussion, provided both that:
  - a. The copies meet the following tests for length:
    - i. Poetry: a complete poem if less than 250 words and if printed on not more than two pages, or if from a longer poem, an excerpt of not more than 250 words;
    - ii. Prose: either a complete story, article, etc., of less than 2500 words, or an excerpt from any prose work of not more than 1000 words or 10% of the work, whichever is less;
    - iii. Illustrations: one drawing, chart, graph, etc., per book or per periodical issue.
  - b. The copies meet the cumulative effect test:
    - i. The material is copied for only one course in the department where the copies are made;
    - ii. Not more than one story, article, poem, essay, or two excerpts by one author are copied, nor more than three from the same collective work or periodical volume during one class term; and,
    - iii. No more than nine instances occur of such multiple copying for one course during one semester or academic term.

Additionally, each copy made should include a notice that the material is protected by copyright

### Reproduction of Music

An instructor may make copies of excerpts of sheet music or other printed works, so long as the excerpts do not constitute a “performable unit,” *i.e.*, a whole song, section, movement, or aria. In no instance can more than 10% of the work be copied. The number of copies cannot exceed one copy per student. Printed copies that have been purchased may be edited, provided the fundamental character of the work is not distorted or the lyrics added to or altered.

A single recording of a performance of copyrighted music may be made by a student for evaluation or rehearsal purposes, and the University or individual instructor may keep a copy. In addition, a single copy of a sound recording owned by the University or an individual instructor (such as a disc, tape, or cassette) or copyrighted

music may be made for the purpose of constructing aural exercises or examinations, and the University or individual instructor may keep a copy.

Instructors may not:

1. Copy sheet or record music for the purpose of creating anthologies or compilations for use in the classroom;
2. Copy sheet music or record music for the purpose of a performance, except for emergency copying to replace purchased copies which are not available for a forthcoming performance (provided replacement copies are purchased and substituted in due course);
3. Copy from works intended to be used by consumers and typically purchased by individuals in the course of study or teaching such as workbooks, exercises, standardized tests, answer sheets, and similar material; or
4. Copy any materials without including the copyright notice which appears on the printed copy.

### **Reproduction and/or Viewing of Television Broadcasts**

Network television and cable station programs may be recorded. The University may retain the copy and use it for instructional purposes for 10 school days. After 10 school days, the recording may be used only for purposes of determining whether to keep the recording as part of the curriculum. If an instructor wants to keep the recording as part of the curriculum, he or she must get permission from the copyright holder. Without such permission, after 45 days, the recording must be destroyed or erased. All copies of recordings must include the copyright notice on the broadcast program as recorded.

### **Reproduction and Viewing of Video Presentations**

Instructors may present purchased or rented videotapes, DVDs, or laserdiscs for classroom viewing. The video materials must be viewed in a face-to-face classroom or similar University setting and should be instructional, not presented for entertainment or as reward. There must be a relationship between the film or video and the course.

Film and videos must be shown using a legitimate (*i.e.*, not illegally reproduced) copy with the copyright notice included. Copying of video materials is permissible only if replacements are unavailable at a fair price or in a viable format.

### **Performance and Display of Audio-Visual Materials for Online Distribution**

The 2002 "Technology, Education and Copyright Harmonization Act" (TEACH Act) expands the rights of educators engaged in Distance Learning to make them more comparable to the rights of educators engaged in face-to-face, traditional classroom teaching. The TEACH Act gives Distance Learning educators the permission to perform and display works, and to make copies integral to such performance and display. To this end, U. S. Copyright law has been amended to provide accredited educational institutions the opportunity to use copyrighted materials as part of the "distance education" component of their courses.

Criteria for performance and display of copyrighted materials as part of the "distance education" component of curriculum are as follows:

1. Institutional policies on copyright and Fair Use must be provided to faculty, staff, and students.
2. Faculty, staff and students must receive notification that the materials used in connection with the course may be subject to copyright. The TEACH Act requires that all copyrighted materials distributed by way of distance education display a copyright notice such as the following:

“The materials used in connection with this course may be subject to copyright protection and are only for the use of students enrolled in this course, for purposes associated with this course, and may not be retained or further disseminated.”

3. The copyrighted materials used must be integral to the course.
4. Only students enrolled in the course may have access to the materials.
5. Copyrighted course materials must no longer be available to the students after the course is completed.
6. Reasonable controls must be implemented to prevent recipients from retaining the copyrighted works beyond the course term and further distributing them.
7. Copyrighted materials must be used only in the proper amount:
  - a. Reasonable and limited parts of dramatic, literary, musical, or audiovisual works;
  - b. Still images in amounts similar to typical displays in a live, face-to-face classroom setting.

The TEACH Act does not allow:

1. Transmission of textbooks or other materials “typically purchased or acquired by the students enrolled.”
2. Unauthorized use of materials for electronic reserves or electronic course packs.
3. Conversion of materials from analog to digital formats, except in certain instances when the portion to be converted is used solely for authorized transmissions and when a digital version of a work is unavailable or is protected by technology measures.
4. Reproduction or posting of works marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks.
5. Performances or displays of copies not lawfully made and/or obtained under copyright law, if the University knows or has reason to believe that they have not been lawfully made and/or obtained.

Further Distance Learning or online copyright information, and assistance on the subject, is available from Moyer Library.

## CONTACTS

Director of Library Services

Office of the Vice President for Academic Affairs

## APPROVED BY

Executive Council

## APPENDICES (INCLUDING ANY FORMS/INSTRUCTIONS)

## HISTORY/REVISION DATES

Original adoption date(s): November 6, 2009

Last Amended date: October 22, 2019 – editorial changes only

End Date for Policy (if applicable):

**RELATED COMPLIANCE STANDARDS/EXTERNAL POLICY DOCUMENTS:**