

## **SEATTLE UNIVERSITY COPYRIGHT POLICY**

- A. **Effective Date.** The effective date of this policy is November 1, 2004.
- B. **Basic Statement of Copyright Policy.** It is the policy of Seattle University to comply with the copyright laws of the United States. Before copying or using copyrighted materials, each member of the University is expected to review and follow the requirements included in this policy and in the related University policies listed in Exhibit 1. Each member of the University is also expected to consult the Seattle University Copyright Guidelines (“Guidelines”) and the recommended resources provided in Appendix 1 to the Guidelines before copying or using copyrighted materials. In all cases of doubt, the University counsel should be consulted.
- C. **Policy Update Schedule.** This policy and the Guidelines reflect the laws as of November 1, 2004. The policy and Guidelines may be updated from time to time when significant changes occur in the copyright laws.
- D. **Policy Implementation.** This policy and the Guidelines are intended to be posted prominently on the University’s website and be available on request at Seattle University’s Office of Administration, 901 12<sup>th</sup> Avenue, P.O. Box 222000 Administration Building 110, Seattle, Washington 98122. In addition, this policy will be distributed electronically to all members of the University community once per academic year. Forms for ordering copies for distribution or retention using the University’s Reprographic Services (or other dedicated copy centers) will include a representation by the individual that the requested copying conforms to this policy and the Guidelines.
- E. **Posted Notices.** The University will post notices reflecting this policy at libraries and near computer and photocopying equipment that may be used for reproducing copyrighted materials. The proper form of notice is as set forth in the Guidelines.
- F. **Scope of Policy.** The specific guidance provided in the Copyright Policy includes:
1. Basic statement of copyright policy;
  2. Copyright clearance;
  3. Guidance for using materials for academic purposes with and without permission pursuant to the fair use doctrine, other statutes, case law and regulatory law; and
  4. Defenses to infringement claims.

This policy reflects only an overview of copyright laws and rules and is intended to direct members of the University community to recognized sources of current and accurate copyright law and guidelines. Each section provides an overview of the policy, rules, laws and regulations with which members of the University community are required to comply. Copyright law often develops more rapidly than the official written

policy can be updated. Therefore, the University also recommends consulting, first, the Guidelines and, second, Appendix 1 to the Guidelines. The Guidelines provide references, laws and rules applicable by type of media and type of educational activity. Appendix 1 provides recommended copyright resources specific to academia. Seattle University's Lemieux Library and Law Library may provide print and online resources that complement the information provided in this Policy, its links, and its companion Guidelines. In all cases of doubt, the University counsel should be consulted.

#### **G. Obligations of Members of the University Community.**

1. **Supplemental Departmental Procedures.** Wherever necessary or useful, academic units, libraries, and other University departments should develop their own supplemental procedures, consistent with this policy and other relevant University policies, for handling copyright compliance, particularly the obligations identified in this Section G.

2. **Copyright Clearance.** Each member of the University community agrees to be responsible to clear copyright—that is, to make a determination of lawfulness before using materials authored by others. Unlawfully “using” materials authored by others means illegitimately exercising the exclusive rights of copyright holders. The following exclusive rights vest solely in authors of copyrighted works: The rights to

- (a) Copy;
- (b) Distribute;
- (c) Publish;
- (d) Prepare derivatives or revisions of;
- (e) Perform; or
- (f) Display works in public.

Before copying or otherwise using materials authored by others, each individual responsible for use of materials must make (and be prepared to support) a determination if the materials are subject to a valid copyright (“copyrighted materials”). If so, the contemplated use must be:

- (a) Permitted by license; or
- (b) Lawful under either –
  - the fair use doctrine; or
  - other law.

The user must obtain permission from the copyright owner if the contemplated use is neither fair use nor otherwise lawful.

Any member of the University community using copyrighted materials or works must affirm in writing that the use conforms to this policy. The affirmation should appear on orders, requisitions, and forms used when making or ordering copies, requisitioning audiovisual works, and copying software. When permission from a copyright owner is obtained, a copy of the permission agreement should be attached to

the request form and retained by the copy facility or service provider. If a member of the University community makes a good faith written determination that a use is lawful under this policy and the Guidelines, the University will support that determination.

3. **Proper Use of Copyrighted Works.** Members of the University community should use copyrighted works properly, as summarized in this section.

a. **Copyright Notices.** Members of the University community should use proper notices when their original works may be published. Publication on the Internet can constitute publication.

b. **Proper Form of Copyright Notice.** An effective copyright should provide:

- (1) The author's name(s);
- (2) The year(s) in which the work was created and most recently published; and
- (3) The word "copyright" or its abbreviation or the symbol, ©.

c. **Notice Not Required.** In the United States and in the many countries that are signatories to copyright agreements to which the United States has also acceded by treaty, no copyright notice is required for works created under the Copyright Acts of 1976 and thereafter, or created on or after the date of January 1, 1978. A notice may, however, assist in proving entitlement to damages in litigation and may also protect a work from being re-published on the Internet by citizens of non-treaty member jurisdictions.

d. **Seattle University Copyright Guidelines.** Each member of the University community is expected to review and follow the Guidelines. The Guidelines provide overviews of the copyright laws and links to specific resources applicable to the specific commonly-used media and situations. As with any summary, the Guidelines cannot cover every situation. Members of the University community should investigate further or seek legal advice if unsure whether use or copying of copyrighted works is lawful.

4. **Policy Violations.** Infringing uses of copyrighted works and other violations of this policy, the law, or the Guidelines are grounds for disciplinary action by the University. In general, students, faculty, and staff will be disciplined if their conduct constitutes a willful violation of the law, this policy, or the Guidelines. In addition, the University reserves all rights to refer unlawful activity to appropriate federal, state, or local legal authorities. Members of the University community who willfully violate this policy and the policies incorporated herein do so at their own risk, assume all liability, and must indemnify the University for loss or damage resulting from their unlawful action.

## H. **University Policies on Administration of Copyrights.**

1. **Copyright Registration Policies.** On request, the University may assist members of the University community to register their works. Although copyright

subsists from the moment a work is fixed in permanent form, copyright for a work must be registered in the U.S. Copyright Office before a lawsuit can be filed in federal court, and a registration certificate is competent proof of the date of a work's creation. Copyright application is generally simple and inexpensive. For the benefit of the University and the individual faculty member, faculty members are encouraged to seek registration for major new works, considering the above-listed factors in evaluating whether to seek assistance with registration. In the University's sole discretion, the University counsel will assist members of the University community with legal matters relating to copyright. This may include assisting with policy compliance to secure protection for intellectual property when appropriate; to investigate, police and respond to claims of infringement; and to coordinate the negotiation and preparation, and to review and approve as to form, license and other agreements relating to intellectual property.

## 2. **Handling of Claims.**

a. **Defense.** If faculty members or staff members are accused of copyright infringement in a civil action, the University will, to the extent appropriate under applicable law, assist in their defense when, in the University's determination, the faculty or staff member made a reasonable, good faith effort to comply with this policy and the Guidelines. Otherwise, faculty and staff members are personally responsible for defense of civil, criminal, or other legal actions alleging unlawful acts. Allegations or investigations of copyright infringement or other intellectual property claims relating to students' activities will be handled pursuant to the discretion of the University.

b. **DMCA Procedures.** All members of the University community are expected to comply with the Digital Millennium Copyright Act (the "DMCA"). The University's formal DMCA policy is incorporated herein by reference: <http://www.seattleu.edu/it/policies/dmcapolicy.asp> The University has designated an agent for receiving notices of claims of copyright infringement pursuant to the DMCA. Among other provisions, the law imposes procedures on the University's response to subpoenas for information about student, faculty, and staff use of electronic materials and forbids unlawful "file sharing" generally, and specifically programs or devices that avoid, bypass, remove, deactivate, or impair a technological measure (such as copy protection), without the authority of the copyright owner. The law is downloadable at the Copyright Office website under Digital Millennium Copyright Act: <http://www.copyright.gov/title17/>

**EXHIBIT 1:**

**SEATTLE UNIVERSITY**  
**INTELLECTUAL PROPERTY POLICIES**

This Copyright Policy incorporates the following University policies by reference:

1. The Acceptable Computer Use Policy, as revised December 1997, which can be accessed at <http://www.seattleu.edu/it/policies/cupolicy.asp>;
2. The Seattle University Interim Web Policy and Guidelines, developed by the Web Steering Committee, which can be accessed at <http://www.seattleu.edu/it/policies/wpolicy.asp>;
3. The Student Copying and Fair Use Policies, which can be accessed at <http://www.seattleu.edu/studentdevelopment/studenthandbook.asp>; and
4. The OIT policies, including the Digital Millennium Copyright Act Policy (“DMCA Policy”), Computer Labs Policy, World Wide Web Policy, and the Hardware Support Policy and Software Support Policy, all of which can be found at <http://www.seattleu.edu/it/policies/default.asp>.