

Copyright Policy

Section 1 – Overview and Purpose

Five Branches University's copyright policy is based upon United States Copyright Law, Title 17, U.S. Code, 1976. The copyright law of the United States governs the making of photocopies or other reproductions of copyrighted material. Our policies are based on a review of the law itself, the Fair Use of Guidelines of 1997, the Digital Millennium Copyright Act, and the DMCA exemptions of 2006.

The goal of this policy is to provide the Five Branches University community with a standard approach for complying with copyright law. Although this policy is a guide on copyright-related matters, it is not a substitute for legal advice. Proper legal advice should be obtained when necessary and it is the responsibility of user to maintain compliance with the law. Five Branches will always remain open to receiving any new information on or interpretation of copyright law.

Section 2 - Scope

This policy applies to all members of the Five Branches University community, including faculty, staff, students and alumni, and any other person who has access to information technology resources at Five Branches University.

Section 3 – Responsibilities

Compliance with the federal copyright law and with this policy is the responsibility of every member of the Five Branches community, including faculty, staff and students. All members of the Five Branches community are expected to take a personal interest in becoming informed about how copyright law affects their activities at Five Branches University.

Questions or concerns about this policy should be directed to the Chief Technology Officer at web@fivebranches.edu.

Section 4 – General Information About Copyright

Copyright grants to the author or originator the sole and exclusive privilege of controlling how the work is used (copies, production, sales, adaptation, etc.). Copyright protection exists for original works fixed in any tangible medium of expression, including:

- literary works;
- musical works, including any accompanying words;
- dramatic works, including any accompanying music;
- pantomimes and choreographic work;
- pictorial, graphic, and sculpture work;
- motion pictures and other audiovisual works;
- sound recordings.

Section 5 – Copyright Protections and Fair Use Principles

To help members of the Five Branches community understand and comply with copyright laws, this document summarizes basic principles of copyright law including the application of fair use provisions. The reproduction of copyright-protected work is likely to be considered fair if it is used for one of the following purposes: criticism, comment, news reporting, teaching, scholarship, and research.

However, a fair use of a copyrighted work depends upon a specific determination based upon the circumstances of the use.

1. The purpose and character of the use, including whether the copied material will be for nonprofit, educational, or commercial use;
2. The nature of the copyrighted protected work;
3. The amount, substantiality, or portion used in relation to the copyrighted work;
4. The effect of the use on the potential market for or value of the copyright protected work.

To minimize the risk of copyright infringement, Five Branches interprets the following situations as fair use:

1. Quotation of short passages in a scholarly or technical work for illustration or clarification of the author's observations;
2. Reproduction of material where the reproduction is unexpected and spontaneous – for example, where an article in the morning's paper is directly relevant to the day's class topic. This would generally cover one time in one semester/term.
3. A summary of an address or article, which may include quotations of short passages of the copyright-protected work.

Section 6 – Copying Materials for Instructional Use

Under certain conditions specified in copyright law, a photocopy or other reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a photocopy or reproduction for purposes in excess of "fair use", that user may be liable for copyright infringement.

Primary and secondary school educators have, with publishers, developed guidelines which allow an instructor to distribute photocopied materials to students in a class, without the publisher's prior permission, upon compliance with these conditions:

- The distribution of the same photocopied materials does not occur every semester.
 - Only one copy is distributed for each student, which must become the student's property.
 - The materials include a copyright notice on the first page of the portion of material photocopied.
 - The students are not assessed any fee beyond the actual cost of the photocopying.
 - The amount of material should be reasonable in relation to the total amount of material assigned for one term of a course.
 - The effect of copying the material should not be detrimental to the market for the work.
- In general, the library should own at least one copy of the work.

General Guidelines for Print and Electronic Reserve

- One chapter from a book.
- One article from a journal issue or newspaper.
- Multiple excerpts from a single book or journal issue will be accepted only if the total length of the submission is 10% or less of the total length of the book or journal issue.
- A short story, short essay, or short poem.
- A chart, diagram, drawing, graph, cartoon, or picture.

Materials in excess of Fair Use may still be used with appropriate permission and/or fees to the copyright holder.

Section 7 – Displaying Media on Campus

Users must secure public performance rights prior to showing a copyrighted work on campus, unless the work was purchased with public performance rights attached. The only exemption to this requirement is for classroom showings.

Classroom Showing

Classroom use or showing of a copyrighted video (VHS, DVD, Blu-ray) is permissible under the following conditions:

- The use must be by instructors or by students.
- The use is part of the curriculum for a specific course and is confined to members in a discrete course or other teaching activity.
- The entire audience is involved with the teaching activity.
- The showing takes place in a classroom or other instructional venue.

- The video is lawfully made; the person responsible has no reason to believe that the video was not lawfully made.

Public Performance

Unless a film has public performance rights attached, it should be assumed that permission is required for a public screening of the film. Public performance rights must be obtained prior to scheduling, advertising or showing a copyrighted film.

If the film is being shown for entertainment purposes, if it includes viewers not enrolled in the course showing the film, or if the film is advertised, it is considered a public (open) showing.

The screening of the film is not excused from the "public" designation just because it is an "educational" film, it is being advertised only on campus, or admission is not being charged. The licensing status of the film or work should be determined prior to any advertisement. If it is determined that a public performance license is required, the University will assist in identifying who to contact for permission. The person showing the film is responsible for securing permission and paying any performance fees.

Section 8 – Digital Millennium Copyright Act

The Digital Millennium Copyright Act (DMCA) provides an opportunity for internet service providers (ISP's) to shield themselves from liability for the actions of their users that infringe on the copyrights of others. All institutions of higher education that provide Internet access fall within the scope of the definition of an ISP, with relevant users being their students, faculty and staff.

As an ISP, the College is potentially liable for monetary damages (plus attorneys' fees) if any of its users provide Internet access to material that infringes on the copyrights of others. The same is true if, for example, a user transmits infringing materials in an e-mail message. Copyright owners are entitled to recover either their "actual" damages, or statutory damages that range as high as \$30,000 per work infringed. (In the case of willful infringement, the statutory damages can be as high as \$150,000 per work.) In all cases, the "fair-use" exemption that allows use of copyrighted materials in narrowly defined circumstances applies to materials in digital form just as it applies to traditional media.

Five Branches University DMCA Procedures

The DMCA does not require that the University "police" the Internet activities of its faculty, staff or students. Rather, it requires that the University respond in specified ways to avoid institutional liability when evidence of infringing activity is brought to its attention or when it receives information that makes it apparent that infringing activity is occurring.

When the University receives a takedown notice, pre-settlement letter or settlement letter from an agent or the copyright holder, the University follows the procedures outlined below:

- When the University receives a notice of claimed infringement, the University will investigate who is attached to the network address given in the notice. Following receipt of a proper notification, the University must "expeditiously" remove ("take down") the infringing material or block access to it. Five Branches University shuts down the identified user's access to the University network.
- The University must "promptly" notify the user of the University's action. Such notification coupled with the removal of the material shields the University from liability for damages sought for the actions of the user.
- The person receiving the notice must also meet with the Student Progress Review Committee and sign a statement acknowledging receipt of the notice and understanding that second incident will result in disciplinary action and may lead to academic dismissal.
- In the case of pre-settlement or settlement letters, it is the user's responsibility to determine whether or not to respond to the settlement offer.

The above procedures only apply to Five Branches University faculty, staff and students. When the University receives a DMCA notification about a computer on our network that is not connected with a member of the Five Branches community, the CTO will determine the appropriate course of action.

DMCA Agent and Copyright Officer for Five Branches University
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Section 9 – Enforcement and Penalties for Infringement

Substantial penalties can be imposed for infringement of a copyright. An injunction to stop the infringement is most likely to be the first action. Payment of actual damages for financial loss suffered by the copyright owner may be required. Statutory damages, for which no actual damages need be proved, may be assessed. If the court determines there is an infringement, it may award damages between \$750 and \$30,000. If the court determines that the infringement was willful, the penalty may be as high as \$150,000 per item. In addition, Five Branches University reserves the right to enforce violations of this policy. Failure to comply may result in suspension or termination of network services, appropriate disciplinary action, termination in the case of employees or expulsion in the case of students.