

ROGER WILLIAMS UNIVERSITY COPYRIGHT POLICY

This policy sets forth the rights and obligations of Roger Williams University (including Roger Williams University School of Law) (hereinafter “RWU”) faculty, staff, and students in their roles as members of the university community using copyrighted works, and describes the copyright ownership rights of works created by RWU community members.

Use of Copyrighted Works

It is the policy of RWU that its faculty, staff and students adhere to all applicable laws regarding intellectual property, including the United States Copyright Act of 1976, the Technology, Education and Copyright Harmonization (“TEACH”) Act of 2002, and the Digital Copyright Millennium Act of 1998. Toward that end, all RWU community members are responsible for adhering to applicable copyright laws and for making responsible and informed good-faith decisions about whether a contemplated use of copyrighted material constitutes “fair use” under the 1976 Copyright Act and/or that such use complies with the TEACH Act provisions for use of digital works in online or distance learning.

Unless a University community member’s contemplated use of a copyrighted work has been licensed, constitutes “fair use” (or is otherwise lawfully exempted from the scope of copyright protections), the RWU community member must, in advance of such use, obtain permission from the copyright owner or the party who has the right to give permission on behalf of the copyright owner. While in all cases, it is the ultimate responsibility of the RWU community member to seek and obtain the appropriate permissions where such are required, the University is committed to providing tools and resources to assist and guide individuals’ decision-making and/or pursuit of appropriate permissions. Community members are encouraged to refer to the University’s associated Copyright Guidelines for further information on the lawful use of copyrighted

materials to be used in connection with the work of students, faculty, and staff. In addition, the University Library is available to guide community members wishing to acquire permissions for materials to be copied for library reserves, course materials, and other University-related purposes.

Copyright Ownership Rights of Works Created by RWU Faculty, Staff and Students

Copyright ownership and intellectual property rights of works created by University faculty are defined in the governing collective bargaining agreement between the University and the Roger Williams University Faculty Association. Copyright ownership and intellectual property rights of works created by University staff in the scope of his/her employment are considered “works made for hire”, and the University retains copyright ownership. Students hold copyright ownership and intellectual property rights in the works they author, unless they have authored works as employees or transferred their copyright in writing to the University or other entity. The ownership rights described in this section do not apply to scholarly works that are authored as part of a required deliverable under a sponsored activity agreement, when in it would require the University to violate a contract or law, when a work is specifically commissioned by the University or created as part of a specific administrative assignment on behalf of the University, or that have been transferred to the University in a writing, assignment, or other process of law.

ROGER WILLIAMS UNIVERSITY COPYRIGHT GUIDELINES

Copyright Law Protections

The U.S Copyright Act grants certain specific rights to the creators of creative works, such as print and electronic documents, web-based content, visual materials, photographs, and music.

These rights include the exclusive right to:

- reproduce the copyrighted work,
- prepare derivative work based upon it
- distribute copies to the public by sale or other transfer of ownership
- perform the work publically (in the case of literary, musical, dramatic or choreographic works, pantomimes, motion pictures and other audiovisual works); and
- display the work publically (in the case of literary, musical, dramatic and choreographic works, pantomimes, and pictorial, graphic, or sculptural working, including the individual images of a motion picture or other audiovisual work.

Copyright protection begins at the moment a work is fixed in a tangible medium and continues for a period prescribed by the Copyright Act, the length of which depends on when it was published and/or created, and its nature. Generally, a work created on or after January 1, 1978 is protected for the term of the author's life plus seventy (70) years after the author's death. Works created by companies or other organizations generally have a copyright term of ninety-five (95) years. Once a work reaches the end of its term of protection, it enters the "public domain" and permission for its use need not be obtained from the copyright holder.

The Fair Use Doctrine

Section 107 of the Copyright Act establishes the “fair use” doctrine, which serve to limits the rights of copyright holders. It permits limited fair uses of works without the copyright holder’s permission. In determining whether the use made of a copyrighted work is a “fair use” under the law, factors to be considered include:

- 1.) the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
- 2.) the nature of the copyrighted work (published or unpublished);
- 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 on the potential market for or value of the copyrighted work.

Whether the use of a copyrighted work is considered a “fair use” under federal copyright law (and thus not a prohibited infringement) requires the “weighing and balancing” of these factors, and thus determinations of “fair use” are always a fact-and-circumstance specific.

Loan, Reproduction by Libraries and Archives

Section 108 of the Copyright Act permits libraries to: archive works; make copies for patrons; participate in interlibrary loan operations; preservation copies and lost, damaged or obsolete copies; and copy and distribute works that are not commercially available.

Use of Copyrighted Works in the Classroom

Under Section 110 of the Copyright Act, educators and students in non-profit educational institutions may perform or display any lawfully-acquired copies of copyrighted work, provided

it is done so in the context of actual, face-to-face instructional activities in a physical classroom or similar place devoted to instruction. This exemption does not permit the reproduction or distribution of copyrighted work; rather only the display or performance of such work.

The Technology, Education, and Copyright Harmonization (TEACH) Act of 2002

Under the TEACH Act, the University is permitted to make certain copyright-protected materials available online to students, without having to obtain permission from the copyright holder. It is important to emphasize that the TEACH Act's exemptions are intended only for distance learning purposes. The protections of the TEACH Act apply only to lawfully acquired copies of the protected work.

Pursuant to the TEACH Act, use of the copyrighted work must be made at the direction of or under the supervision of an instructor as an integral part of a mediated instructional activity and must be limited to students officially enrolled in a specific course. The use of the copyrighted work used must be "reasonable and limited" comparable to that typically displayed in a live classroom setting. The TEACH Act prohibits retention of any copies of the copyrighted class beyond the class session in which it is being used, as well as the dissemination of any copies, and the making of any copies by enrolled students or by other authorized course website users. The TEACH Act protections do not apply to course packs or textbooks generally purchased by students individually, works produced primarily for use as distance education products, or works known or believed to be unlawfully made or acquired. Conversion of print or other analog materials to digital formats is allowable only if they are to be used for authorized transmission and when no digital version of the work is available, or if the digital version is subject to technological protection measures that prevent its use. Distance instructors invoking the

protections of the TEACH Act must provide notice to students that materials used in the course may be subject to copyright protection.