

Copyright Policy

The copyright law of the United States ([Title 17, United States Code](#)) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or other reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use", that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if in its judgment, fulfillment of this order would involve violation of the copyright law.

Copyright law is complicated and its interpretation is sometimes controversial. This guide has been prepared in an effort to help us all better understand what is allowable by law, and why some services that have been provided in the past may now be restricted. We will always remain open to receiving any new information on or interpretation of copyright law. It is our hope that this will help to clarify any questions about using materials and to help you understand and adhere to the provisions of federal copyright law.

Compliance with the federal copyright law and with this policy is the responsibility of every member of the faculty, staff, administration, and student body, and we will all share in the liability if a violation occurs. Each of us should, therefore, take a personal interest in becoming informed about how copyright law affects our work at Hamilton College.

Your support and cooperation is greatly appreciated. If you have questions or concerns about this policy, please contact the [Reference Department](#), Burke Library, Hamilton College, 315-859-4735.

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General Information about Copyright

Copyright grants to the author or originator the sole and exclusive privilege of multiplying copies of literary or artistic productions and publishing and selling them. 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.

Fair Use

Many provisions of the law affect educational uses of copyrighted materials but the most generally applicable is [Section 107 - Limitations on Exclusive Rights: Fair Use](#). Under the law, it is fair use to reproduce copyrighted materials for purposes of criticism, comment, news reporting, teaching, scholarship, or research. Four criteria will be applied in judging whether or not there has been an infringement:

- The purpose and character of the use;
- The nature of the copyrighted work;
- The amount and substantiality of the portion being used;
- The effect on the potential market for or value of the work.

The four criteria for determining fair use listed above are very general. To aid in the interpretation of Fair Use criteria, interested groups of publishers and users have agreed on more specific guidelines, including:

- Guidelines and fair use in photocopying of copyrighted print materials for educational purposes.
- Guidelines and fair use of copyrighted musical works in education.
- Guidelines for photocopying for interlibrary loans by libraries and archives.

These guidelines were not written into the law, but they are accepted and used in interpreting the provisions of copyright law.

Photocopying

Copying for Classroom Uses

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

1. The distribution of the same photocopied materials does not occur every semester.
2. Only one copy is distributed for each student, which must become the student's property.
3. The materials include a copyright notice on the first page of the portion of material photocopied.
4. The students are not assessed any fee beyond the actual cost of the photocopying.

Copying for Library Reserve Uses

At the request of a faculty member, a library may photocopy and place on reserve excerpts from copyrighted works in its collection in accordance with the guidelines above similar to those governing formal classroom distribution for face-to-face-teaching discussed above-. Hamilton College believes that these guidelines apply to the library reserve shelf to the extent it functions as an extension of classroom readings or reflects an individual student's right to photocopy for his personal scholastic use under the doctrine of fair use.

If the request calls for only one copy to be placed on reserve, the library may photocopy an entire article, an entire chapter from a book, or an entire poem. Requests for multiple copies on reserve should meet the following guidelines:

1. The amount of material should be reasonable in relation to the total amount of material assigned for one term of a course, its subject matter and level.
2. The number of copies should be reasonable in light of the number of students enrolled, the difficulty and timing of assignments, and the number of other courses that may assign the same material.
3. The material should contain a notice of copyright.
4. The effect of photocopying 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.

Electronic Reserves

An area left without specific guidelines at this time is audiovisual media. Representatives of copyright owners and users of audiovisual media have agreed that the general principles of fair use can apply to audiovisual media.

These guidelines apply to Electronic Reserves as well as paper copies. Copyright notices are applied to the documents before they are scanned for use on the Web. Electronic Reserves are available for use off campus by members of the Hamilton College Community only, and their use is protected by copyright.

Showing Media Library Materials

Films and videos and DVD's owned by the Media Library are purchased for classroom use only. In some cases, public performance rights have been purchased at the time the film was purchased, depending on vendor. If rights have not been purchased, permission for a public performance may still be obtained. However, the cost must be paid by the requesting department. Contact [Linda Brennan](#) (859-4923) for information about public performances involving Media Library films. If performance rights are not available, or may not be obtained in any way, these media cannot be offered for a public showing and therefore cannot be advertised, even to the campus community. Showings of these media cannot be opened to students outside your class.

Using Music Library Materials

The Music Library collection is a closed collection. Materials cannot be signed out without express consent. If the [Music Library staff member](#) grants permission and the material you want constitutes less than 10% of the total work, an audiocassette copy can be made for you by either the Music Library or Audiovisual Classroom Services.

Seeking Permission to Use Library owned Copyrighted Materials

Educators should be aware that it might be possible to make use of copyrighted materials beyond what's provided under fair use, if permission is granted first. There may or may not be a charge, and permission may be refused.

Permission may be obtained for Media Library owned films from the Copyright Clearance Center. Faculty members or a departmental designee may request copyright permission themselves. The answer may take up two to three weeks, depending on what the Center has to do to ascertain and locate the copyright owner.

First, determine ownership of the work. A [Reference Librarian](#) will be able to help in locating addresses of publishers. Next send a detailed letter of request, including the following:

- Title and author's/originator's name
- Editor and edition (if a print material)
- Exact material to be used, including amount, page numbers, chapters and if possible a photocopy of the material, or other appropriate quantitative description
- Number of copies to be made
- Purpose for the duplicated materials
- Form or method of distribution
- Whether or not the material is to be sold
- Type of reproduction (photocopy, slide, videotape, etc.)

You may also do the following:

- Leave blank spaces (possibly in the form of a checklist) at the end: conditions, authorized signature and date.
- Make three copies - one for your files and two to send to the publisher. One of these is to be returned to you
- Include a self-addressed, stamped return envelope.
- Don't ask for blanket permission - in most cases it cannot be granted.
- Send by registered mail when response is crucial, such as for publications that will be sold or printed for distribution.

Showing Rented Films and Videos

Media materials are rented for specific purposes. If a film is to be open to more than just the students in a class, it must be rented for an "Open showing" which allows for on-campus advertising and an audience larger than a class of students.

If a student will not be able to attend the scheduled showing, and you want to schedule a second showing, that must be arranged when the film is ordered and made a part of the film or video rental contract. Many companies charge an extra fee to show a film or video a second time, even if it's for a student in the original class.

Rented materials cannot be placed on reserve at the Media Library.

Rented materials cannot be shown in the Media Library for a student who may miss the original showing. The additional showing in a classroom must be scheduled through [Audiovisual Services](#).

College facilities and equipment cannot be used to show media that has not been legally obtained for classroom or public showings. Videos you have rented from a local video store such as Blockbuster do not constitute legally obtained copies for open showings. It is permissible to use these videos for classroom showings.

Programs Recorded Off-Air

Programs may be taped off-air only by nonprofit educational institutions, for use in instruction and not for entertainment. A broadcast may be recorded and retained by the educational institution for a period of 45 calendar days after the recording date. At the end of that period, the recording must be erased. Off-air recordings may be used once by a faculty member, and can be repeated once for instructional reinforcement. The showing must be in a classroom, and must take place within the first 10 consecutive school days. A faculty member must request a program be recorded: programs cannot be recorded in anticipation of a request. After the first 10 consecutive school days the faculty member must review and determine whether or not to purchase the program may use a tape. All copies of off-air recordings must include the copyright notices displayed on the program.

Faculty-Owned Materials

Videos purchased by you or by your department may be used by you in your classroom, but cannot be used for an open showing to students outside your class and cannot be advertised on campus. Videos you have taped off-air at your home cannot be shown in the classroom. Audiovisual Classroom Services can make an off-air tape at your request, or it may be possible to rent a program through appropriate channels.

Video Recording of Campus Events

Department and Student Performances Department or student productions can be videotaped if the following criteria are met:

- If the presentation is an original work by a faculty member or student, and they sign a video recording permission form provided by Audiovisual Classroom Services.
- If the presentation is a copyrighted script and written permission is obtained in advance from the publisher or owner of the copyright.
- If the presentation involves copyrighted music (such as a dance concert) and written permission is obtained from the music publisher or owner of the copyright.

Some works that one might believe to be in the public domain may still carry a copyright for translation, stage direction or other modifications, and written permission is still necessary.

Lecturers

Guest or Campus Community Lectures presented by invited guest speakers will be taped if the speaker signs a permission form, provided by the Audiovisual Classroom Services department, prior to the lecture or discussion taking place. Permission is assumed for taping lectures presented by members of the campus community, and no signature is necessary. If a guest artist or lecturer brings audiovisual materials (film or video) for use in their program, it must be known that they have permission to use those items. Audiovisual Classroom Services has a form for them to sign declaring such.

Sporting Events

There are no restrictions placed on sporting events, but a request must be placed prior to a game and must come from a member of the coaching staff.

Audiovisual Classroom Services Production Work

Using Existing Footage

Existing video footage can be incorporated into a video being produced by a student for a class project if the borrowed material does not constitute more than 10% of the original, nor does it comprise the majority of the student's finished class product.

Using Pre-Recorded Music

Audiovisual Classroom Services has a supply of licensed pre-recorded music that can be used in video production. Other music can be used only if a "video synchronization license" is bought from the music publisher or owner of the copyright.

Copying Video Tapes

Audiovisual Classroom Services will copy no media carrying a copyright without express, written consent from the publisher or copyright owner. Audiovisual Classroom Services will gladly copy most home videos produced by you.

Penalties for Infringement

Substantial penalties are provided 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 must award between \$500 and \$20,000.

An exception to the statutory damages is made in the case of teachers, provided the teacher believed and had reasonable grounds to believe that it was fair use. In this case the teacher may be found guilty but the damages do not have to be paid. This gives the teachers some special consideration under the law, but it also requires that they be thoroughly familiar with what might be considered reasonable fair use practices.

Reminders

It is the responsibility of the party requesting services, not Audiovisual Classroom Services, to secure written permission for videotaping, or video or audio production.

Copyright on Hamilton's Digital Information Systems

In compliance with the [Digital Millennium Copyright Act's](#) safe harbor provisions relating to educational institutions, Hamilton encourages the users of its network to educate themselves on the principles of copyright and to respect the rights of copyright owned by others. To that end, you will find below a number of references that provide basic principles regarding copyright that relate to the College community.

[Circulars from the U. S. Copyright Office](#)

Copyright Infringement on Hamilton's Digital Information Systems

Notification and Removal Procedures - Introduction

Individuals using computers and networks ("Digital Information Systems") at Hamilton College (the "College") are responsible for complying with copyright laws and the College's policies and procedures regarding use of the Digital Information Systems. The College reserves the rights to deny, limit, revoke or extend computing privileges and access to the Digital Information Systems in its discretion. In addition, alleged violations of this procedure, the College's policies regarding use of the Digital Information Systems, or other policies of the College in the course of using the Digital Information Systems may result in an immediate loss of computing privileges and may also result in the referral of the matter to the College's judicial system or other appropriate authority.

The procedures outlined below will apply when the College receives notification of an alleged copyright infringement. For purposes of these procedures, an e-mail message shall be considered a written notice or request.

Notification of Infringement

Copyright holders who believe their copyrighted material has been infringed by an account holder must notify the College Library's [Director of Library Information Systems](#), (the "Designated Agent") of the allegedly infringing action or material in writing. The notification must 1) identify the copyrighted material being infringed in sufficient detail to permit the College to locate the allegedly infringing material on the College's Digital Information Systems, 2) state the basis for the claim of possible infringement, and 3) state the basis for the copyright holder's copyright in the work (e.g., author, owner, assignee).

- I. The Designated Agent will notify the account holder who appears to have posted the allegedly infringing material, and will investigate the complaint promptly.
- II. If, after conducting an investigation, the Designated Agent determines that the allegedly infringing material appears to infringe the copyright of the copyright holder, the Designated Agent will follow the procedures for Removal of Infringing Material set forth below.

Removal of Infringing Material

- I. In the event that the allegedly infringing material is being used for an active class at the College, the Designated Agent will attempt to work out an arrangement with the copyright holder for use of the allegedly infringing material by the account holder until the end of the current semester. Failing a satisfactory arrangement, the Designated Agent will conduct an investigation of and take action as set forth below regarding any allegedly infringing material.
- II. If, after the Designated Agent's investigation, the Designated Agent determines that the allegedly infringing material appears not to infringe the copyright of the copyright holder, the Designated Agent will notify the copyright holder and the account holder of the determination. If the copyright holder disagrees with the determination of the Designated Agent, the copyright holder may request in writing that the College ask its attorney's to render an opinion as to whether the allegedly infringing material constitutes copyright infringement pursuant to paragraph XI below.
- III. If, after the Designated Agent's investigation, the Designated Agent determines that the allegedly infringing material appears to infringe the copyright of the copyright holder, the Designated Agent will notify the [Director, Network and Telecommunications Services \(NTS\)](#), the copyright holder and the account holder whose account was used to post the allegedly infringing material.
- IV. Upon receipt of such notification from the Designated Agent, the Director, Network and Telecommunications Services (NTS), will direct the appropriate ITS staff member to remove, or block access to, the allegedly infringing material.
- V. Upon receipt of notification from the Designated Agent that the allegedly infringing material appears to infringe the copyright of the copyright holder and is being blocked or removed from Hamilton's Digital Information Systems, the account holder may request that the Designated Representative restore the removed or blocked material based on the account holder belief that the allegedly infringing material is not infringing. Such request must be in writing and include a detailed statement of the basis for the account holder's belief that the allegedly infringing material is not infringing, as well as a request that the removed or blocked material be restored.
- VI. If the Designated Agent receives such request from the account holder, the Designated Agent will provide a copy of the request to the copyright holder.
- VII. If, within 10 days after a copy of the account holder's request is sent to the copyright holder by the Designated Agent, the Designated Agent has not received a written request from the copyright holder to continue the blocking or removal of the allegedly infringing material, the Designated Agent will notify the Director, Network and Telecommunications Services

(NTS), to restore the material. The Director, Network and Telecommunications Services (NTS), will restore the allegedly infringing material within four days after receipt of such notification.

VIII. If the Designated Agent receives within 10 days a written request from the copyright holder to continue the blocking or removal of the allegedly infringing material is received from the original sender, the Designated Agent will provide copies of all correspondence in the matter to the [Vice President for Information Technology](#) who will forward copies of such correspondence to the College's attorneys, who will be asked to render an opinion as to whether the allegedly infringing material constitutes copyright infringement. If the allegedly infringing material is determined not to constitute copyright infringement, the material will be restored by the Director, Network and Telecommunications Services (NTS), within four days of such determination.

Interim Designation of Agent to Receive Notification of Claimed Infringement

This is to notify copyright holders that Hamilton College's Designated Agent to receive notices and requests concerning claimed infringement, pursuant to the Digital Millennium Copyright Act, is [Ken Herold](#), Director of Library Information Systems, Burke Library. Any copyright holder wishing to send a notice to Hamilton College regarding possible copyright infringement should file that notice in writing with Ken Herold at the following address:

Daniel Burke Library
Hamilton College
198 College Hill Road
Clinton, New York 13323
Email: dmca@hamilton.edu
Telephone: 315-859-4487
Fax: 315-859-4578

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