

**Purpose:**

*This policy is not intended to act as a substitute for legal advice, and proper legal advice should be obtained when necessary.*

The purpose of the Butler University Copyright Policy is to provide a summary of United States copyright laws as they relate to the use of copyright protected materials in an educational setting. All Butler University faculty, staff, and students are expected to act as responsible users of the copyrighted works of others, which includes making informed, good faith decisions that comply with copyright law. When permission to use copyright protected material is required, that permission must be obtained prior to use of the materials. Infringement of another person's copyright is a violation of federal law. The legal ramifications of infringement include fines that range from \$200 to \$150,000 per infringement. Every student, faculty member, and employee of the University is expected to comply with this policy. For additional help with copyright, please see the Copyright LibGuide at: <http://libguides.butler.edu/copyright>.

**Copyright Law:**

Copyright law protects the expression of an idea; it does not protect ideas, data, or facts. Copyright is a form of legal protection for authors of original works, including dramatic, musical, artistic, literary, and other intellectual products. Copyright gives authors a set of exclusive legal rights for a limited period of time. Under current law, the author's rights begin automatically when a work is created. Copyrighted works are not limited to those that bear a copyright notice (e.g. ©) or to those that are registered. Copyright is automatic and arises upon the creation of a given work. These rights prohibit others from, among other things, using the works without permission or profiting from the sale or performance of these works. Section 106 of the Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

1. Reproduce copies of the original work.
2. Prepare derivative works based on the original copyrighted work.
3. Distribute copies of the work by rental, lease, sale, or lending.
4. Publicly perform the work.
5. Publicly display the work.

However, the rights are not absolute. They are subject to "fair use" limitations addressed below.

Copyright applies to any format that is fixed and tangible. Typical formats may include:

1. Printed words
2. Video tape
3. DVDs and CDs
4. Computer files—both audio and video

5. Photographs—both print and electronic

**“Fair Use”:**

The provision for “fair use” of a copyright protected work is found in the Copyright Act at Section 107. Under the “fair use” provision, a reproduction of someone else's copyright-protected work may be considered non-infringing if it is used for criticism, comment, news reporting, teaching, scholarship or research. If the reproduction is for one of these purposes, then a determination of “fair use” will be guided by consideration of four non-exclusive factors:

1. The purpose and character of use (principally, whether for commercial or nonprofit educational use);
2. The nature of the copyright-protected work;
3. The amount and substantiality of the portion used; and
4. The effect of the contemplated use on the potential market for or value of the copyright-protected work.

The difference between “fair use” and “infringement” of a copyright-protected work is not easy to determine. The burden of establishing a “fair use” is on the user and requires a very circumstance-specific analysis of the intended use or reuse of a work. Here are three examples that illustrate this challenge:

<b>Likely Fair Use</b>	<b>Gray Area – Opinions May Vary</b>	<b>Likely a Violation of Copyright</b>
Scanning three pages of a 120 page book and posting it to Blackboard for one semester.	Scanning seven pages of a 120 page book and posting it Blackboard for one semester.	Scanning an entire book and posting it to Blackboard.
If the scanned pages are not the “core” of the work in question, a favorable argument for “fair use” exists.	The amount exceeds established standards for acceptable amounts by one page (i.e. greater than 5%). However, courts are not bound by established standards and the Copyright Act contains no such standards. Opinions will vary.	Scanning an entire book clearly weighs against a finding of “fair use” as the entire work is used.

**Copyright Provisions for Higher Education:**

The Copyright Act contains specific exceptions for the use of copyright-protected materials by academic institutions. These provisions include:

- Section 107 on fair use, which is discussed above.
- Section 108 on reproduction by libraries and archives, which applies to activities such as archiving; replacing lost, damaged or obsolete copies, patron requests for entire works, and interlibrary loans.

- Section 109 on first sale, which permits the resale or lending of copies of works, providing the basis for library lending and the sale of used books.
- Section 110 on the use of materials in an educational setting, which permits certain types of content use in the classroom. Common examples include the use of legally acquired DVDs and CDs in a classroom. The use should be instructional and not for entertainment or reward.

### **Help With Copyright:**

- The Copyright FAQ: <http://copyright.butler.edu>.
- The Copyright & Intellectual Property Libguide: <http://libguides.butler.edu/copyright>
- Brad Matthies (9549 or bmatthie@butler.edu) – Butler University Libraries’ Copyright Manager. The Copyright Manager does not provide legal advice or enforce copyright compliance. The Copyright Manager oversees all activities that pertain to copyright as it pertains to interlibrary loan and course reserves. In addition, the Copyright Manager serves as an educational resource to students, faculty, and staff concerning copyright issues.
- Josh Petrusa (9236 or jpetrusa@butler.edu) – Associate Dean of Technical Services. The Associate Dean of Technical Services is responsible for all library-related database licensing agreements.
- Joe Indiano (8063 or jindiano@butler.edu) – Sr. Director of Network & Systems. Mr. Indiano is responsible for oversight and compliance of Butler University’s Computer Use Policy.
- Scott Pfitzinger (9219 or spfitzin@butler.edu) – Technology Librarian. The technology librarian oversees the library’s computer use policy.
- Legal counsel – The university can, when warranted, consult with legal counsel for advice concerning copyright-related issues.

### **Related Campus Policies:**

- Butler University’s Intellectual Property Policy  
<http://www.butler.edu/birs/websnap/documents/IPPololicies.pdf>
- Butler University’s Computer Use Policy  
<http://www.butler.edu/information-technology/policies-security/overview/fair,-responsible-and-acceptable-computer-use/>
- Irwin Library’s Computer Use Policy  
<http://www.butler.edu/library/library-information/library-policies/computer-use-policy>
- Irwin Library’s Print Reserves Policy  
<http://www.butler.edu/library/research/reserve-materials/print-reserves>
- Interlibrary Loan and Copyright  
[http://www.butler.edu/library/research/interlibrary-loan-\(ill\)](http://www.butler.edu/library/research/interlibrary-loan-(ill))

### **Living Document Statement:**

This policy is a living document and must remain adaptable to respond to new developments in copyright law. Butler University will keep this policy under review and modify when necessary.