
Copyright and Fair Use

Policy Number: RE100

Responsibility:

Introduction

As a Christian institution of higher learning, Kettering College values and respects the laws that govern the creation and distribution of intellectual property (copyright) and the rights of members of the academic community to use such intellectual property (fair use). It is the expectation of the administration of Kettering College that all faculty, staff, and students will be familiar with these laws and use copyright protected works in accordance with the law.

Briefly, copyright law prohibits an individual from reproducing, distributing, displaying or performing an original work in a fixed medium unless the individual holds the copyright or has the permission of the copyright holder; fair use allows an individual to use a work without permission if evaluation by the following criteria supports a balance in favor of fair use:

- The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit education purposes (is it being used to make or save money versus for instructional purposes);
- The nature of the copyrighted work (is the work primarily creative in nature versus primarily factual) ;
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole (the entire book or journal versus a limited portion of it); and
- The effect of the use upon the potential market for or value of the copyrighted work (the copyright holder is losing \$500 versus the copyright holder is losing \$5.00).

Advances in technology have greatly expanded the ability to produce an unlimited number of exact duplicates of copyrighted works. For this reason the Digital Millennium Copyright Act was passed placing stricter limitations on the distribution of copyrighted materials in an online environment. The TEACH Act was later passed to address the use of copyrighted materials by academic institutions in online environments.

Scope

This Policy applies to the faculty, staff, and students of Kettering College. Compliance with the terms of this Policy is a condition of employment for faculty and staff, and of enrollment for Kettering College students. This Policy is subject to any applicable laws and regulations or to specific provisions in grants or contracts that govern rights in copyrighted works.

Responsibilities

Faculty, staff, and students are expected to follow copyright law when using copyrighted materials.

Faculty, staff and students are expected to have a basic understanding of copyright law including such use in online environments and may be required to periodically demonstrate such understanding. Information about copyright law and ones responsibilities regarding copyright can be accessed in the Copyright section of the Kettering College Library website at <http://www.kc.edu/copyright-and-fair-use-information>. Additionally, faculty, staff and students may consult with the library's copyright specialist.

Individuals using copyrighted materials either with permission or under the fair use guidelines are expected to retain appropriate documentation for their records, should there ever be a question about such use. The college will maintain a copyright permissions folder on the college shared drive where copyright permissions may be saved.

Statutory damages are not imposed in cases where an employee of a nonprofit educational institution or library performing job related tasks believed and had reasonable grounds for believing that such use of the copyrighted work was fair use, even though such use constituted infringement. It is for this reason that it is important to retain records of both permission to use a copyrighted work and of determination of fair use.

COPYRIGHT

If a copyrighted work is legitimately distributed to a class or incorporated into course instructional materials, all copies of the work should be clearly identified as copyright protected and individuals receiving, viewing, or hearing it should be informed that it may not be redistributed.

Reports of possible copyright infringement should be made to the Academic Dean. Faculty, staff, or students who violate this policy may be subject to disciplinary action by the college, as well as being personally liable for litigation and damages stemming from the infringement.

Copyright and the College Computer Network

The college provides faculty, staff, and students with access to college computer systems and networks in support of instruction and academic and administrative needs. All individuals given access to campus computers, computer systems and computer networks are expected to use them in compliance with federal and state laws, college policies, and licensing agreements, as well as within the standards of ethical behavior whether accessing them on campus or remotely. Individuals engaging in any type of illegal activities using college computer systems and networks will be subject to suspension or loss of their campus computer privileges, as well as being held personally responsible for litigation and damages resulting from such illegal use.

Consequences of Copyright Violations

In addition to possible actions by Kettering College, an individual found guilty of copyright infringement may be liable for statutory damages ranging from \$750 to more than \$30,000 per infringed work; if the infringement was intentional, the court may increase the award of statutory damages to any sum up to (and including) \$150,000. Intentional copyright infringement for commercial advantage or private financial gain may also result in imprisonment.

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