

National Personal Training Institute (NPTI)

Copyright Infringement Policy

It is the policy of the National Personal Training Institute that all members adhere to the provisions of the United States Copyright Law of 1976, as amended (Title 17, U.S. Code), hereinafter referred to as the “1976 Copyright Act”; the Digital Millennium Copyright Act of 1998; and the Technology, Education, and Copyright Harmonization (TEACH) Act of 2002. The purpose of the NPTI Copyright Policy is to provide guidance to faculty, staff, and students in the responsible use of copyrighted works in the creation, exchange, and dissemination of ideas and information in the pursuit of research, teaching, and learning.

Copyright ownership and intellectual property rights of works created by NPTI faculty, staff, and students are defined in: Intellectual Property Policy: Rights and Responsibilities with Respect to Intellectual Property at NPTI.

USING COPYRIGHT PROTECTED WORKS

Permission

All members of the are responsible for adhering to applicable copyright laws and determining whether a use constitutes fair use under the 1976 Copyright Act and/or complies with the TEACH Act provisions for use of digital works in an online or distance learning environment. If a use does not constitute fair use, or a work is not in the public domain, permission must be obtained from the copyright owner or whoever has the right to give permission on behalf of the copyright owner.

Infringement

In the case of infringement, the copyright owner is entitled to recover actual damages and profits attributed to the infringement, as well as statutory damages, ranging from \$750 to \$150,000 per infringement.

U.S. COPYRIGHT LAW

Full text of the United States Copyright Law of 1976, as amended (Title 17, U.S. Code)
<http://www.copyright.gov/title17/92chap1.html>

What is Protected by Copyright

Copyright protects “original works of authorship” that are fixed in a tangible form of expression. Copyrightable works include, but are not limited to, literary works; musical, dramatic, and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; and architectural works. These categories should be viewed broadly, for example, computer programs may be registered as literary works.

What Is Not Protected by Copyright

Materials generally not eligible for statutory copyright protection include: works that have not been fixed in a tangible form of expression, such as improvisational speeches or performances that have not been written or recorded; titles, names, short phrases, slogans, familiar symbols; ideas, procedures, methods, systems, processes, concepts; and works consisting entirely of

information that is common property, such as standard calendars, height and weight charts, and lists or tables taken from public documents.

Rights of the Copyright Owner

Section 106 of the 1976 Copyright Act <http://www.copyright.gov/title17/92chap1.html#106> gives the copyright owner the exclusive right to do or to authorize others to do the following to a Copyrighted work: reproduce the work, prepare derivative works, distribute copies to the public (by sale, transfer of ownership, rental, lease, or lending), and to perform or display the work publicly.

Copyright Registration, Copyright Notice, Public Domain

Registration of a work with the U.S. Copyright Office, although not required for copyright protection, establishes a public record of the copyright, and is required before an infringement suit may be filed in court. A copyright notice is not required for copyright protection of works published on or after March 1, 1989. Use of the copyright notice, however, is an important factor in the event a copyrighted work is infringed, and should include the symbol © or the word “copyright,” the name of the copyright owner, and the year of first publication.

Copyright protection exists from the time the work is created in fixed form. Duration of protection is dependent upon when copyright was secured. Works published prior to 1923 and works created by the U.S. Government are in the public domain and are not protected by copyright law. Works in the public domain may be used freely without the permission of the copyright owner.

1976 Copyright Act Provisions for Nonprofit Educational Institutions

It is illegal for anyone to violate any of the rights provided by the copyright law to the copyright owner, however, these rights are not limited in scope. The 1976 Copyright Act includes specific provisions for nonprofit educational institutions in the use of copyright protected works:

- a) Section 107 on fair use: <http://www.copyright.gov/title17/92chap1.html#107>
- b) Section 108 on reproduction by libraries or archives:
<http://www.copyright.gov/title17/92chap1.html#108>
- c) Section 110 on the performance and display of works in the classroom and in distance education: <http://www.copyright.gov/title17/92chap1.html#110>
- d) Section 117 on computer software:
<http://www.copyright.gov/title17/92chap1.html#117>

Fair Use

Section 107 of the 1976 Copyright Act provides the doctrine of “fair use” of a copyrighted work, for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. Fair use is an attempt to balance an author’s copyright protection in creating intellectual works against the public interest in the dissemination of those works. To determine whether the use made of a work is fair use, the law defines four factors to consider:

The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit, educational purposes; The nature of the copyrighted work; The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and The effect

of the use upon the potential market for or value of the copyrighted work. All four factors must be examined, weighed, and balanced in relation to the desired use.

Reproduction by Libraries and Archives

Section 108 of the 1976 Copyright Act establishes provisions for libraries or archives to reproduce copies of copyright protected works for the purpose of preservation, replacement of damaged or lost works, and resource sharing via interlibrary loan.

Section 107 of the 1976 Copyright Act and the “Agreement on Guidelines for Classroom Copyright in Non-For-Profit Education Institutions with Respect to Books and Periodicals” provide the guiding principles for course reserves and course packs.

Computer Software

Section 117 of the 1976 Copyright Act permits the owner of a copy of copyrighted software to make or authorize the making of an archival backup copy. Computer software is generally licensed to the user, and the terms of the license agreement for a specific copyrighted software determine whether the user has a right to copy the licensed software beyond the archival copy.

Copying or reproduction of copyrighted software on NPTI owned computing equipment must be in accordance with the provisions of the 1976 Copyright Act and the specific software license agreement. Use of unauthorized copies of software on NPTI owned computers or networks or computers housed in the University’s facilities is not permitted.

Digital Millennium Copyright Act of 1998

NPTI complies with the provisions of the Digital Millennium Copyright Act of 1998 (DMCA), which grants an online service provider (OSP) limited liability for contributory copyright infringement when its subscribers/users infringe a third party’s copyright in the use of the OSP’s information technology network. The DMCA requires an OSP to register an official agent with the U.S. Copyright Office, develop and post a copyright policy, use only lawfully acquired copies of copyright protected works, apply measures to protect against unauthorized access to and dissemination of information, and comply with take-down requests.

Technology, Education, and Copyright Harmonization (TEACH) Act

Section 110 of the 1976 Copyright Act establishes provisions for the performance or display of a work in the course of face-to-face teaching activities or as part of mediated instructional activities transmitted via digital networks.

The TEACH Act, enacted in 2002 as an amendment to Section 110 and Section 112 of the 1976 Copyright Act, exempts certain performances and displays of copyrighted materials in digital formats transmitted via digital mediums such as online distance learning and course management systems. The TEACH Act applies to distance education that includes the participation of enrolled students, on or off campus, by accredited, non-profit educational institutions that meet the TEACH Act’s qualifying requirements.

Requirements of using copyrighted works under the TEACH Act include:

- 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.
- Use of the copyrighted work must be limited to students officially enrolled in a specific course.
- Amount of the copyrighted work used must be “reasonable and limited” comparable to that typically displayed in a live classroom setting.
- The institution must institute and publicize its copyright policies to faculty, staff, and students; promote compliance with U.S. copyright laws; and provide notice to students that materials used in the course may be subject to copyright protection.
- The institution must implement technological measures to ensure compliance of these policies, including password-restricted access, duration of access limited to the length of the “class session,” and preventing students from retaining a copy or disseminating a copy of the copyrighted work to others.
- Exemptions under the TEACH Act do not extend 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 permitted only if used for authorized transmission and when no digital version of the work is available or the digital version is subject to technological protection measures that prevent its use.