

Waldorf University

Copyright Policy & Procedures

About this Document

The purpose of this Copyright Policy & Procedures (the “Policy”) is to provide direction to the faculty and staff of Waldorf University in using copyright-protected works as they carry out their professional responsibilities. It does not address use of protected works by students.

This Policy explains the policies and procedures to be followed by Waldorf University faculty and staff, based on current law. This Policy does not provide legal advice, and nothing in this Policy should be considered to constitute legal advice. Legal advice is specific to each situation and can only be provided in consultation with those individuals involved.

Part I explains fundamental information about copyright law. Part II provides a process for obtaining permission from a copyright owner, including forms. Part III provides answers to specific questions common among Waldorf University faculty and staff.

This Policy is current as of February 15, 2016.

Any questions regarding this Policy or copyright issues in general should be directed to the Library Director.

Part I. Copyright Law

Copyright is governed by federal law, namely, the Copyright Act of 1976 ([17 U.S.C. §101 et seq.](#)). Despite the fact that it has been amended many times since 1976, the Copyright Act is extremely out-of-date for modern technology.

What Copyright Protects. Copyright protects original expressions with a modicum of creativity that are fixed in a tangible medium of expression. Neither the requirement of “original” nor of “modicum of creativity” means that a work must be new or unique; rather, taken together, they require that the work have originated from the person claiming to have authored it and that the author have created some contribution to it (as opposed, for example, to simply stating facts or copying another’s work). ([17 U.S.C. §102](#))

As of March 1, 1989, copyright exists automatically as soon as expression is fixed in a tangible medium. Prior to that date, various formalities were required for a work to be protected by copyright. Thus, you must assume that something created after March 1, 1989, is protected. Although the same cannot be said for all pre-1989 works, the vast majority of those used by Waldorf University faculty and staff are protected by copyright. [This chart](#) can help you determine whether a pre-1989 work is likely to be protected by copyright. *See also* [Public Domain](#).

Public Domain. “Public domain” is a term of art referring to works not protected by copyright. Facts, ideas, processes, methods, and systems cannot be protected by copyright, although the expression of them may be. The public domain also includes works that are created by the federal government and works for which the copyright has expired.

Ownership; Works Made for Hire. Usually, the person or persons who create a work own the copyright in it. If the work was created by more than one person, both own an equal interest.

However, the copyright in a *work made for hire* is owned by the hiring party, who is also deemed to be the author of the work. A work made for hire is one created by an employee in the line of his or her employment; or one created by an independent contractor if it falls into one of nine specific categories¹ and if the contractor and hiring party have signed an agreement stating that they intend the work to be a work made for hire. ([17 U.S.C. §101](#))

Ownership in Works Created by Waldorf University Faculty and Staff. Under the work made for hire doctrine, Waldorf University owns the copyrights in works created by all employees when the work is created as part of the employee’s job duties. Furthermore, under the Course Writer Agreement, Waldorf University claims the copyright in works created by non- employee Course Writers that fall under that agreement.

Duration of Copyright Protection. Currently, for most works, copyright lasts for the lifetime of the author plus 70 years following the author’s death. For works made for hire and anonymous and pseudonymous works, however, copyright lasts for 95 years from the date of first publication or, if unpublished, 120 years from the date of creation. ([17 U.S.C. §301 et seq.](#))

The duration of protection has changed several times over the years. [This chart](#) can help you determine whether an older work may still be protected.

Rights of a Copyright Owner. A copyright owner has the exclusive rights to reproduce, make derivatives of, publicly distribute, and publicly perform or display the work. ([17 U.S.C. §106](#)) To perform or display a work publicly means (1) to do so at a place open to the public or at a place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; OR (2) to transmit or otherwise communicate a performance or display to the public, regardless of whether the recipients receive it in the same place or in separate places and at the same time or at different times. ([17 U.S.C. §101](#)) Any performance

¹ contribution to a collective work, part of a motion picture or other audiovisual work, translation, supplementary work, compilation, instructional text, test, answer material for a test, and atlas

or display provided to students via a course management system, such as Blackboard, falls under this definition.

Fair Use. The fair use doctrine allows certain uses of a protected work that would otherwise constitute infringement. Determining fair use is a completely subjective process and must be conducted on a case-by-case basis. To determine whether a use is fair, one must analyze four factors explained in [Section 107](#) of the Copyright Act. One of those factors asks whether the purpose of the use is closer to being non-profit educational or commercial in character. The non-profit or for-profit nature of the use can play a role in assessing other factors, as well.

Generally speaking, uses that are commercial in purpose or character or that harm the marketplace for the work are less likely to be considered fair.

Because of the subjective nature of fair use and the commercial character of Waldorf University, it is Waldorf University policy that faculty and staff *not* rely on fair use in any situation.

Thus, faculty and staff *always* must have permission from the copyright owner before using a copyright-protected work or a portion thereof in any way that implicates [the copyright owner's rights](#).

Liability: Who Is Liable. Depending on the circumstances, the individual committing an infringing act and/or Waldorf University could be held liable for the infringement. The determination of which parties will be held responsible is governed by the general legal doctrines of *respondeat superior*, and the law of agency.

Although the individual who actually infringes usually will be liable, they may not be held liable if (1) they were required to engage in the infringing activity as part of their job and (2) they were not allowed to exercise discretion or judgment in choosing to engage in the activity.

Waldorf University might be held liable for infringements in which its employees engage as part of their job – *i.e.*, as agents of Waldorf University – regardless of whether individuals in Waldorf University administration or elsewhere were actually aware of the infringing activities.

Liability: Implications of Liability. Someone found to have infringed copyright may be liable for actual damages or for statutory damages up to \$30,000 (\$150,000 in cases of willful infringement), plus attorneys fees. Infringing copies as well as equipment used to engage in the infringing activities may be impounded. ([17 U.S.C. §501 et seq.](#)) One who circumvents technological measures designed to control access to a work may be liable for actual damages or statutory damages up to \$2500. ([17 U.S.C. §1203](#))

Part II: When and How to Obtain Permission to Use Works

Waldorf University faculty and staff *must* have permission from the copyright owner (or their agent) before using any work protected by copyright or a portion thereof.

What “Permission” Means. For purposes of this Policy, “permission” refers to being given the rights to use a work (or portion thereof) in the specific way in which you intend to use it; permission is often referred to as a “license.” *Permission must always be in writing.*

You May Already Have Permission. For works in the following categories, permission to use for certain purposes has already been given; thus, you would need to request permission only if you intend to use the work beyond the scope of the permission already granted.

Open Access. The Open Access movement is a response to the skyrocketing cost of academic publications and thus focuses on scholarly works. “Open access” refers to the free and immediate availability on the public Internet of works that scholars give to the world without expectation of payment, permitting any user to read, download, copy, distribute, print, search, or link to the full text of these articles, crawl them for indexing, pass them as data to software, or use them for any other lawful purpose. For more information about open access, see the SPARC (Scholarly Publishing and Academic Resources Coalition) website at sparc.arl.org. The following resources may also be helpful:

Directory of Open Access Journals (doaj.org)
Directory of Open Access Books (doabooks.org)
Openstax College (openstaxcollege.org)
Social Science Research Network (ssrn.org)
Open Educational Resources Commons (oercommons.org)
arXiv(arxiv.org)

Creative Commons. [Creative Commons](http://creativecommons.org) (“CC”) is a nonprofit organization that promotes the sharing and use of copyright-protected works through its user-friendly online licensing system. The creator of a work makes it available online and uses the CC site to create a Creative Commons License for the work, indicating the types of uses allowed and any conditions for those uses. The CC logo then attaches to the work. A user who finds the work online can click on the logo to view what is allowed by that license. See the CC website (creativecommons.org) for more information and to search for works subject to a CC license.

Repositories of Free-Use Materials. The number of online repositories of works made available for use, free of charge, by their copyright owners is

growing. The concept is generally the same as “[open access](#),” although that term usually refers to scholarly resources. These sites are described using various terminologies, including “royalty-free” and “free-use.” Examples include Wikimedia Commons for text and images (commons.wikimedia.org) and Purple Planet for music (purple-planet.com). In addition, many commercial providers of content, such as [Getty Images](#), now offer subsets of their content for free.

CAUTION: Many of these sites have restrictions on how free content can be used (*e.g.*, for educational purposes only or without modification) and/or requirements for use (*e.g.*, credit the copyright owner). The details will vary from site to site. Be sure you read and understand the applicable terms of use.

CAUTION: Some judgment and common sense must be used in determining reliability of sites purporting to offer content for free. For example, Disney vigilantly protects its intellectual property, so a non-Disney site purporting to grant you permission to download its images of Disney characters should not be trusted.

Institutional Licenses. Waldorf University licenses the use of thousands of works through subscriptions to databases and other digital resources, such as *Academic Search*, *Complete Business Source*, *ABI Inform*, and *Public Health*. Although you may “use” such works, your use is subject to the terms of the applicable license and the specific rights granted in that license. Address questions to the Library Director.

Obtaining Permission. You *must* obtain written permission before copying, distributing, performing, or displaying any work (or portion thereof) that is not in the [public domain](#) and for which you do not [already have the appropriate permission](#). All requests for permission are handled by the Department of Instructional Design (“ID”).

Process for Requesting Faculty/Staff Member:

- Faculty/staff member must submit to ID a completed *Request to Obtain Permission to Use Copyright-Protected Work*. Keep in mind that it is impossible to know how long it will take to obtain permission and that there is no guarantee permission will be granted.
- If permission is granted, you must limit your use only to that granted in the license for your use.
- You must cease your use no later than the date so indicated in the license.

Process for Instructional Design Staff:

- ID staff must use the *Waldorf University Copyright License* (“*License*”) to obtain permission on behalf of faculty and/or staff.

- If the copyright owner (or their agent) wishes to modify the form or requires that their own license or other documentation be used, ID staff must consult with the Library Director before consenting.
- ID staff will provide requesting the faculty/staff member with a copy of the agreed-upon license or, if permission is refused, so notify the requestor.
- ID staff will retain records of all grants of permission for at least five (5) years past the end date of the permission period, or, if permission to use is perpetual, at least five (5) years after receiving written confirmation from the faculty/staff member engaged in the use that the use has permanently ceased.

Part III: Frequently Asked Questions

When and why would copyright be a problem for using websites or content from websites?

Consider the rights of a copyright owner, [discussed above](#): to reproduce, create derivatives of, distribute to the public, and publicly perform or display the work. These rights apply regardless of format or medium. Therefore, a copy is created when you download, “right click and copy,” or print from a website or other online source, such as a database.

Under the [broad definition of “public,”](#) almost every website constitutes public display and/or performance (depending on the nature of the content) by the owner of the website. However, it is not always clear which actions by a user of the site would constitute public display/performance by the user.

Therefore, Waldorf University policy is to provide access to unlicensed online content by linking to it in a manner that sends students directly to the website hosting the content rather than by [embedding links](#) or content through a Waldorf University system, including Blackboard, unless permission to do so has been provided.

What does “embed” mean?

Embedded content is viewed through platforms such as Adobe Flash that provide access to the content, such as a YouTube video, on the page in which it is embedded rather than taking the user directly to the page hosting the content (*e.g.*, youtube.com). Because the use of content embedded on your website causes a display or performance of the content on your own site, it can be construed as constituting a [public display or performance](#). **Waldorf University policy is to not embed content without permission.**

Can we [embed](#) links in course material?

No, unless you have permission, for the reasons [explained above](#).

In addition, the Terms of Use/Service for major content providers often expressly prohibit embedding links or allow doing so only if you follow their procedures. For example, under [YouTube's Terms of Service](#), YouTube users agree "not to access [YouTube content] through any technology or means other than the ... pages of [YouTube] itself, the Embeddable Player, or other explicitly authorized means YouTube may designate." **Thus, it is fine to link to the YouTube page hosting a video, but not to embed code for the video unless using YouTube's "embeddable player."**

Can I [embed](#) links to material I created myself?

Yes.

[As the owner of the copyrights](#) in all works created by employees and Course Writers as part of their duties for Waldorf University, **Waldorf University grants permission for those works to be used in any way that supports the creator's work for Waldorf University.**

Is it OK to copy a link to a website and send it to students?

Yes.

A URL itself is a fact and thus [not subject to copyright protection](#).

Do I have to use the URL as the link?

No. You can use the page title, source name, or other brief amount of text as your link.

Using a brief amount of text from another site as linked text, as is typically done, does not raise copyright issues, because a brief phrase rarely contains the requisite "[modicum of creativity](#)" to rise to the level of copyright protection.

Is it OK to link to publicly accessible websites in class materials if we don't [embed](#) them?

Yes, except for the situations described below.

This is true regardless of the nature of the site – whether the site belongs to a federal agency, a corporate entity, or anyone else. However, the following circumstances require additional consideration:

- Some website Terms of Use/Service prohibit “deep” linking (linking to a page within a site beyond the home page). If the Terms of a site prohibit the type of linking you want to use, do not engage in that linking.
- Using an image as a link may require obtaining permission – not because you’re using the image as a link, but because you are copying and publicly displaying the image. Do not use a copyright-protected image as a link (or in any other manner) without first obtaining permission.
- Using trademarks, especially logos or taglines, as links could raise issues of trademark or unfair competition. You may use a trademarked name as a link so long as doing so does not incorrectly suggest a connection between Waldorf University and the owner of the trademark, but do not use logos or taglines as links.

Is it OK to link to websites of federal agencies?

Yes.

Is it OK to link to corporate websites?

Yes, subject to the [caveats discussed above](#).

Should we send website links to students, or tell them to search for specific sites using Google, instead of linking to websites in our materials?

It doesn’t matter.

[Per the discussions above](#), there is no difference from a legal perspective between providing a link to a site in your course materials and emailing the link to students or instructing the student to find it himself. In other words, there is no reason to avoid linking to websites in your materials (subject to the [caveats discussed above](#)).

Is it OK to link to proprietary databases or websites [to which Waldorf University subscribes](#)?

It depends on the particular license and how you are linking.

The license for each resource to which Waldorf University subscribes is specific to that resource. Check with the Library Director to find out what is allowed for the resources in which you are interested.

Is it OK to link to videos from YouTube, Vimeo, or other video sites?

Yes, if you follow Waldorf University policy in how you link.

Per the preceding discussion, [you may not embed](#) YouTube videos, but [you may link](#) to the videos where they reside, so long as doing so does not violate the Terms of Use/Service of that site.

Is Blackboard considered a public “place”?

Yes.

The Copyright Act definition of a [public performance or display](#) includes one that *is transmitted or otherwise communicated*, regardless of whether the recipients receive it in the same place or in separate places and at the same time or at different times. ([17 U.S.C. § 101](#)) Thus, anything posted on Blackboard constitutes a public performance/display for copyright purposes.

Do I have to obtain permission before posting something on Blackboard?

Yes, if you are posting actual content ([other than content you have created](#)) rather than linking to it.

Do I have to obtain permission before posting links on Blackboard?

No, other than in the [situations discussed above](#).

Do I need to obtain permission before downloading or otherwise copying copyright-protected content from publicly available websites?

Yes. But remember that in some cases, [you may already have permission](#).

The public accessibility of online content does not affect its copyright status, nor does it necessarily imply that the copyright owner has given permission to use the content beyond viewing/listening to it on the site on which it resides.

Is it OK to use content from a website if the website says it’s OK?

Yes, if you limit your use [to that specifically allowed](#) (and assuming that the website [has the authority](#) to grant such permission).

What about a website that doesn’t say anything about using content but provides download and print buttons?

You may download or print, but your use should be limited to that indicated by the button or links to “click here to download/print” and, if applicable, by other language on the site.

When a website implies that you have the right to engage in certain actions without specifically stating so, it creates an implied license. The option to “click to download” is a good example of an implied license. However, an implied license has limits, defined by the context in which the license occurs. For example, absent any

information to the contrary, “click to download” does not grant a license to further distribute the downloaded content.

Is it OK to use images from clip-art websites?

Yes, if you abide by any [requirements and/or limitations](#) given on the site (including in its Terms of Use/Service) and assuming that the website [has the authority](#) to grant such permission. Note that many clip-art and other image-based sites purport to grant the right to use images found on the site when they do not have the right to do so. A certain amount of judgment and common sense must be used [in deciding whether to rely](#) on such sites.

Is it OK to use images from clip-art packages purchased by Waldorf University, such as in Adobe and Microsoft products?

Yes, assuming that your use falls within the scope of the license that accompanies the purchase of such products.

The vast majority of software and electronic products, including Adobe Creative Suites and Microsoft Office, are not actually purchased in the traditional sense, but licensed. That means that your use of any clip-art or other images included in such packages is subject to the license to which Waldorf University agreed when obtaining that product. Thus, you should check the license to determine how you may use the content.

How can we use content from e-books, electronic serials, and other electronic publications?

Most electronic publications are licensed; thus, the rights you have vary and depend on the license for the particular publication. Contact the Library Director for information about the works you wish to use.

Do I need permission before using excerpts from works?

Yes, assuming the excerpt is protected by copyright. (If the excerpt consists solely of [public domain](#) material, such as facts, copyright does not apply.)

Does it make a difference whether the work is in print, electronic, or online?

No; you must obtain permission to use copyright-protected excerpts from any work, regardless of format or medium.

Keep in mind, though, [that in some cases](#), particularly for electronic and online works, a license, Terms of Use/Service, or other documentation may grant the permission you need.

Does this mean I need permission before including excerpts from textbooks (either print or electronic) in class material?

Yes.

Note that some textbooks, and most electronic textbooks, include licenses that may already give you the permission you need.

Does it matter that I'm using links or copyright-protected content in supplemental material (suggested readings), as opposed to required readings or assignments?

No.

Regardless of the purpose of your use, you may include links when abiding by the [Waldorf University policy](#) for doing so, and you must obtain permission to use any copyright-protected material.

Can I scan, copy or digitalize print materials?

Yes.

The copyright law of the United States (Title 17, U.S. Code) governs the making of photocopies or other reproductions of copyrighted material. The person using said equipment is responsible for any infringement.

As a Faculty Member, can I request or supply materials to be placed on Course Reserve for Students?

Yes.

Materials can be placed on reserve in the Luise V. Hanson Library for usage by students in the courses outside of the classroom.

1. All reserve materials are either library-owned or provided by the faculty member.
2. Course Reserves must be removed at the end of each semester and either returned to the collection or their original owner.
3. All Reserve Material must otherwise meet the Waldorf Copyright Policy

Can I make copies of, play or perform Music from the Library Collections?

Musical works owned by or housed in the Luise V. Hanson Library are available for utilization in classes or classrooms with the appropriate licensing or permissions. Although permissions may be obtained, the rights granted may differ from item to item.

Please contact the Library staff for further information.

As Faculty, can I show or make a video or film available for student usage or in class?

Yes.

Videos, films and other digital clips can be utilized in classes or classrooms, however, they **must** have the appropriate licensing or permissions.

To utilize these materials, please contact the Library Director with the name, intended date to show and number of anticipated viewers prior to the showing.

Please contact the Library staff for further information.

Does the Library offer Interlibrary Loan?

Yes.

The Luise V. Hanson Library complies with the rights and restrictions provided by the Copyright Law [Sections 107, 108(g)(2)] and the National Commission on New Technological Uses (CONTU) Guidelines when obtaining copies on interlibrary loan for campus library users, and when supplying copies of campus materials to other libraries in the state, the nation, and internationally.

It is important that you respect the copyright of the materials you receive on interlibrary loan. The copyright “warning” that you read when you place an interlibrary loan request explains that the law allows the Library to obtain copies for you from other libraries under certain conditions. One important condition is that the requested copy should only be used for your personal study, scholarship, or research. The library may refuse an order if it appears that fulfillment would be a violation of the law and will advise you as to other ways to obtain the needed material.

Library staff members follow several sets of guidelines to interpret the law for interlibrary loan as well as utilizing commercial suppliers and the copyright clearance center to obtain as much requested material as possible.

What should I do if my question is not answered here?

All questions related to this Policy or to copyright in general should be directed to the Library Director.