UTDPP1043 - Policy Regarding Photocopying Copyrighted Materials

Policy Statement

It is the policy of The University of Texas at Dallas to adhere to the requirements of the United States Copyright Law of 1976, as amended, (Title 17, United States Code, hereinafter, the "Copyright Act") including ensuring that the restrictions that apply to the reproduction of software are adhered to and that the bounds of copying permissible under the fair use doctrine are not exceeded. Accordingly, all faculty and staff of The University of Texas at Dallas should adhere to the following policy guidelines:

1. Only copyrighted materials are subject to the restrictions in this Policy Statement. Non-copyrighted materials may be copied freely and without restriction. Because a copyright notice is not required for copyright protection of works published on or after March 1, 1989, most works (except those authored by the United States Government) should be presumed to be copyright protected, unless further information from the copyright holder or express notice reveals that the copyright holder intends the work to be in the public domain. With regard to works published prior to March 1, 1989, a copyright notice generally is required in order for them to be copyright protected.

2. Copyrighted software may be copied without the copyright owner's permission only in accordance with the Copyright Act. Section 117 of the Act permits the making of a single archival back-up copy. Most software, however, is licensed to the user and the terms of the license agreement may give the user "permission" to make copies of the software in excess of the single archival copy permitted by the Copyright Act. Each software license agreement is unique, and its terms and provisions will vary from product to product and from company to company. As a result, the extent of the user's rights to copy licensed software beyond that which is permitted under the Copyright Act cannot be determined without reference to the user's license agreement with the software copyright owner. It is the policy of The University of Texas at Dallas that any copying or reproduction of copyrighted software on U. T. Dallas computing equipment must be in accordance with the Copyright Act and the pertinent software license agreement. Further, faculty, staff and students may not use unauthorized copies of software on U.T. Dallas owned computers or computers housed in U. T. Dallas facilities.

3. Copyrighted materials may be copied without the copyright owner's permission where such copying constitutes "fair use" under the Copyright Act. Section 107 of the Act identifies four factors to be considered in determining whether a use is fair. While this statutory "balancing test" is the ultimate test of fair use, Congress has endorsed certain Guidelines that provide more concrete guidance to educators as to the boundaries of permissible copying. These Guidelines are set forth in Appendix I hereto. Generally, copying is permissible as fair use to the extent it is permitted by the Guidelines set forth in Appendix I. In some cases, copying not within the Guidelines of Appendix I nevertheless may constitute fair use; however, before proceeding on that assumption,
the appropriate administrative office of the component institution should request the advice of the Office of General Counsel.

4. In order to copy materials including software where (a) the materials are copyrighted, and (b) copying extends beyond what is permitted by license of the boundaries of the Guidelines in Appendix I, permission should be obtained from the copyright owner, and (c) the advice of the Office of General Counsel has not been sought. The information in Appendix II may be helpful in obtaining such permission.

5. When permissible under State law and procedures, The University of Texas at Dallas will arrange for the defense of any faculty or staff member against charges of copyright infringement for any copying:
   1. where the copying is in accordance with the provisions of a valid software license agreement,
   2. where the copying is within the Guidelines of Appendix I,
   3. where the permission of the copyright owner has been obtained, or
   4. where the Office of General Counsel has issued a written opinion as to the permissibility of the copying.

Otherwise, the faculty or staff member will be personally responsible for the defense of an action for copyright infringement.

6. The Office of the Vice President for Administration shall be responsible for posting notices reflecting this policy at all photocopying stations which may be used for reproducing copyrighted materials, e.g., departmental copy rooms and libraries, and at or near all computer stations that may be used for reproducing copyrighted software. Photocopy guidelines concerning books and periodicals should appear at all photocopy machines, and copying guidelines concerning music should be placed at photocopy machines in music facilities.

7. For educational uses of music, the guidelines set forth in the legislative history of 107 of the Copyright Law are generally applicable. With respect to emergency copying permitted under those guidelines, special implementing details are set forth below.