

# Copyright, Patent & Invention Policies

## Copyright Guidelines

Saint Leo University's policy is to comply with United States copyright law including the Digital Millennium Copyright Act (DMCA) and the Technology, Education and Copyright Harmonization Act (TEACH). The University further acknowledges that copyright law applies to digital resources and that any unauthorized distribution or redistribution of music, movies, text, software or other protected media may be a violation of the law. The University's values encourage all members of the University community to exercise individual stewardship in understanding and upholding the provisions of the copyright law and respecting the copyrights of others.

The University's complete policy on copyright, patent and invention is available in the faculty handbook.

The Links at the top of this page provide more specific information on relevant technology-related policies. Questions concerning these policies can be directed to the Office of the Chief Information Officer in UTS.

## TEACH Act

The Technology, Education, and Copyright Harmonization Act (TEACH) was signed into law on November 2, 2002. The Act updates copyright law in the area of digital distance education and, if numerous requirements are met, facilitates the use of copyrighted materials in digital distance education efforts without having to obtain prior permission from the copyright owner. It is an effort to simulate fair use as allowed by copyright law.

However, TEACH imposes certain requirements on the use of copyrighted materials in distance education. TEACH is more restrictive than the law allowing face-to-face instructional use of copyrighted materials. For uses that fall outside the scope of TEACH, the user should seek permission or evaluate the use under the fair use exemption of the copyright law.

TEACH is a compromise between the needs of academe to make free use of copyrighted materials as an efficient and effective teaching tool, and the needs of copyright holders to protect the value of their work effort. Most of the TEACH requirements are designed to allow transmission of copyrighted works (or parts thereof) to a legitimate student audience for a limited time, without permission or license fees, while preventing dissemination that could undermine the market for the works.

In general, faculty who want to incorporate works into digital transmissions for instructional purposes pursuant to TEACH must:

1. Not use unlicensed commercial works that are sold or licensed for purposes of digital distance education.
2. Not use pirated works or works where the faculty member otherwise has reason to know the copy was not lawfully made.
3. Limit the use of works to an amount and duration comparable to what would be displayed or performed in a live physical classroom setting. TEACH does not authorize the digital transmission of textbooks or course packs to students.
4. Faculty should interactively use the copyrighted work as part of a class assignment in the distance education course. It should not be an entertainment add-on or passive background/optional reading.
5. Use software tools provided by the University to limit access to the works to students enrolled in the course, to prevent downstream copying by those students, and to prevent the students from retaining the works for longer than a class session
6. Notify the students that the works may be subject to copyright protection and that they may not violate the legal rights of the copyright holder.

## Fair Use

The University seeks to encourage the fair use of copyrighted materials, balancing the research needs of faculty, students, and staff while respecting the intellectual property rights of copyright holders and abiding by the pertinent laws governing usage of copyrighted materials. According to Title 17, Chapter 1, and Section 107 of the U.S Copyright law:

In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
4. The effect of the use upon the potential market for or value of the copyrighted work. The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

For a more complete set of guidelines, see [Fair Use Guidelines for Educational Multimedia](#) developed by [The Consortium of College and University Media Centers](#). For information on the TEACH act, see the [American Library Association](#).

## Resources

For additional reading on intellectual property issues and copyright in particular, see these online resources.

1. The American Library Association
2. Bitlaw on technology law
3. Digital Millennium Copyright Act at EDUCAUSE
4. Intellectual property law at [www.intelproplaw.com](http://www.intelproplaw.com)
5. U.S. Copyright Office.

## Guidelines for Off-Air Recordings

In March 1979, a congressionally appointed committee determined the following guidelines concerning the application of 'fair use' to the recording, retention, and use of television broadcast programs for educational purposes. They specify periods of retention and use of such off-air recordings in classrooms and similar places devoted to instruction and for homebound instruction. The purpose of establishing these guidelines is to provide standards for both owners and users of copyrighted television programs.

The guidelines were developed to apply only to off-air recording by nonprofit educational institutions.

A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by a nonprofit educational institution for a period not to exceed the first forty-five (45) consecutive calendar days after date of recording. Upon conclusion of such retention period, all off-air recordings must be erased or destroyed immediately. "Broadcast programs" are television programs transmitted by television stations for reception by the general public without charge.

Off-air recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary, in classrooms and similar places devoted to instruction within a single building, cluster or campus, as well as in the homes of students receiving formalized home instruction, during the first ten (10) consecutive school days in the forty-five (45) day calendar day

retention period. "School days" are school session days – not counting weekends, holidays, vacations, examination periods, and other scheduled interruptions - within the forty-five (45) calendar day retention period. Off-air recordings may be made only at the request of and used by individual teachers, and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcasted.

## Copyright in Face-to-Face Instruction Exemption to Copyright

17 U.S.C. 110 (1) of the copyright law creates an exception to the copyright holder's exclusive right of performance. The "face-to-face" exemption allows an educator to perform a work (including home use video) in class, as long as the following criteria are met:

1. Applies only to non-profit educational institutions;
2. Applies only to instructional activities in the classroom where the teacher and students are in the same location;
3. Covers performances of copyrighted works by teachers, students, and guest lecturers;
4. The audience must be composed of members of one class only;
5. The performance must be part of "systematic instruction," which does not include recreational or cultural programs;
6. The performance must take place in a classroom or similar place devoted to instruction (i.e., not a gymnasium, auditorium, class play, graduation, athletic event, etc.); and
7. Must use a lawfully made copy of the film or video. When a professor has taken parts of copyrighted materials to make the copy, whether or not the copy was lawfully made depends upon an analysis of the four "fair use" factors. The face-to-face exemption itself does not authorize any copying.

There are no exceptions to the above requirements. Further, the relationship between the film or video and the course must be explicit. Films or videos, even in a "face-to-face" classroom setting, may not be used for entertainment or recreation, whatever the work's intellectual content.

## Ownership of Copyrightable Materials and Intellectual Property

This document describes Saint Leo University's policies and associated administrative procedures for ownership of copyrightable materials and other intellectual property. Its objectives are:

- To enable the University to foster the free and creative expression and exchange of ideas and comment;
- To preserve traditional University practices and privileges with respect to the publication of scholarly works;
- To establish principles and procedures for sharing income derived from copyrightable material produced at the University; and
- To protect the University's assets and imprimatur.

## Overview

Faculty at the University must be free to choose and pursue areas of study and concentration without interference, to share the results of their intellectual efforts with colleagues and students, to use and disseminate their own creations, and to take their created works with them should they leave the University.

This copyright policy is intended to maintain those traditional norms and values that foster, in various ways, the open and free exchange of ideas and opinions. In this regard the policy formulated here is guided by a basic tenet of the 1940 Statement of Principles on Academic Freedom and Tenure of the American Association of University Professors:

Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free expression.

The ongoing revolution in the use of information technology for the production and dissemination of knowledge enables members of the University community to create new forms or types of scholarly works, to communicate with current audiences with new types of materials, and to reach new audiences. The dramatic changes in information technologies and the ways in which they are employed provide an occasion to examine and clarify policy for copyright of works of scholarship produced at the University. This copyright policy statement delineates the rights and responsibilities of the University and its faculty, employees, students, and other members of the community.

By longstanding custom, faculty members hold copyright for books, monographs, articles, and similar works as delineated in the policy statement, whether distributed in print or electronically. This pattern will not change. This copyright policy retains and reasserts those rights.

## Copyright Ownership Policy

Copyright is the ownership and control of the intellectual property in original works of authorship that are subject to copyright law. It is the policy of the University that all rights in copyright shall remain with the creator unless the work is a work-for-hire (and copyright vests in the University under copyright law), is supported by a direct allocation of funds through the University for the pursuit of specific project, is commissioned by the University, makes significant use of University resources or personnel, or is otherwise subject to contractual obligations.

1. Books, Articles, and Similar Works Including Unpatentable Software: In accord with academic tradition, except to the extent set forth in this policy, Saint Leo University does not claim ownership to pedagogical, scholarly, or artistic works, regardless of their form of expression. Such works include those of students created in the course of their education, such as dissertations, papers and articles. The University claims no ownership of popular nonfiction, novels, textbooks, poems, musical compositions, patentable software, or other works of artistic imagination that are not institutional works and did not make significant use of University resources or the services of University non-faculty employees working within the scope of their employment.

2. Institutional Works: The University shall retain ownership of works created as institutional works. Institutional works include works that are supported by a specific allocation of University funds or that are created at the direction of the University for a specific University purpose. Institutional works also include works whose authorship cannot be attributed to one or a discrete number of authors but rather result from simultaneous or sequential contributions over time by multiple faculty and students. For example, software tools developed and improved over time by multiple faculty and students where authorship is not appropriately attributed to a single or defined group of authors would constitute an institutional work. The mere fact that multiple individuals have contributed to the creation of a work shall not cause the work to constitute an institutional work.

3. Patent and Copyright Agreement: All faculty, staff, student employees, and students who participate or intend to participate in teaching and/or research or scholarship projects at Saint Leo University are bound by this policy. Except as described in #1 above, this agreement assigns rights to copyrightable works resulting from University projects to Saint Leo University. This policy applies, and those subject to this policy are deemed to assign their rights to copyrightable works, whether or not an Agreement is signed and is on file.

4. Works of Non-Employees: Under the Copyright Act, works of non-employees such as consultants, independent contractors, etc. generally are owned by the creator and not by the University, unless there is a written agreement to the contrary. As it is Saint Leo University's policy that the University shall retain ownership of such works (created as institutional rather than personal efforts, as described in #2 above), Saint Leo University will generally require a written agreement from non-employees that ownership of such works will be assigned to the University. Examples of works which the University may retain non-employees to prepare are:

- Reports by consultants or subcontractors;
- Computer software;
- Architectural or engineering drawings;
- Illustrations or designs; and
- Artistic works.

5. Videotaping and Related Classroom Technology: Courses taught and courseware developed for teaching at Saint Leo University belong to the University. Any courses which are videotaped or recorded using any other media are Saint Leo University property, and may not be further distributed without permission from the appropriate academic dean. Blanket permission is provided for the use of students, or for other University purposes. Prior to videotaping, permission should be obtained from anyone who will appear in the final program.

6. Contractual Obligations of the University: This Copyright Ownership Policy shall not be interpreted to limit the University's ability to meet its obligations for deliverables under any contract, grant, or other arrangement with third parties, including sponsored research agreements, license agreements and the like. Copyrightable works that are subject to sponsored research agreements or other contractual obligations of the University shall be owned by the University, so that the University may satisfy its contractual obligations.

7. Use of University Resources: Saint Leo University resources are to be used solely for University purposes and not for personal gain or personal commercial advantage, nor for any other non-University purposes. Therefore, if the creator of a copyrightable work makes significant use of the services of University non-faculty employees or University resources to create the work, the creator shall disclose the work to the Vice President of Academic Affairs and assign title to the University. Examples of non-significant use include ordinary use of desktop computers, the Library, and limited secretarial or administrative resources. Questions about what constitutes significant use shall be directed to the appropriate dean or the Vice President of Academic Affairs.

8. Reconveyance of Copyright to the Creator: When copyright is assigned to the Saint Leo University because of the provisions of this policy, the creator of the copyrighted material may make a request to the Vice President of Academic Affairs that ownership be reconveyed back to the creator. Such a request can, at the discretion of the Vice President of Academic Affairs, be granted if it does not:

- Violate any legal obligations of or to the University,
- Limit appropriate University uses of the materials,
- Create a real or potential conflict of interest for the creator, or
- Otherwise conflict with University goals or principles.

## **Administration of Policy**

1. Determination of Ownership and Policy: The Vice President of Academic Affairs will resolve any questions of ownership or other matters pertaining to materials covered by this policy.

2. Licensing and Income Sharing:

Licensing: The Vice President of Academic Affairs seeks the most effective means of technology transfer for public use and benefit and, toward that end, handles the evaluation, marketing, negotiations and licensing of University-owned inventions or copyrightable materials with commercial potential. Computer databases, software and firmware, and other copyrightable works owned by the University, are licensed through the Vice President of Academic Affairs. The Vice President of Academic Affairs must approve in advance exceptions to this procedure.

Royalty Distribution: The Vice President of Academic Affairs will allocate royalties assigned to the University. If copyright protection alone is claimed, royalties normally will be allocated in a similar manner, with the inventor's

share allocated among individuals identified by the investigator (or department head if not under a sponsored agreement), based on their relative contributions to the work. Where royalty distribution to individuals would be impracticable or inequitable (for example, when the copyrightable material has been developed as a laboratory project, or where individual royalty distribution could distort academic priorities), the “inventor’s share” may be allocated to a research or educational account in the laboratory where the copyrightable material was developed.

3. Assignments: No assignment, license or other agreement may be entered into or will be considered valid with respect to copyrighted works owned by the University except by an official specifically authorized to do so.

4. Use of the University Name in Copyright Notices: The following notice should be placed on University-owned materials in order to protect the copyright: Copyright © [year]. The Board of Trustees of Saint Leo University. All Rights Reserved.

No other institutional or departmental name is to be used in the copyright notice, although the name and address of the department to which readers can direct inquiries may be listed below the copyright notice. The date in the notice should be the year in which the work is first published, i.e. distributed to the public or any sizable audience.

Additionally, works may be registered with the United States Copyright Office using its official forms.

5. Copying of Works Owned by Others: Members of the University community are cautioned to observe the rights of other copyright owners. Contact the Vice President of Academic Affairs’ Office for University policies pertaining to copying for classroom use. Policies regarding copying for library purposes may be obtained from the Director of the Library.

6. Sponsored Agreements: Contracts and grants frequently contain complex provisions relating to copyright, rights in data, royalties, publication and various categories of material including proprietary data, computer software, licenses, etc. Questions regarding the specific terms and conditions of individual contracts and grants, or regarding rules, regulations and statutes applicable to the various government agencies, shall be addressed to the Vice President of Academic Affairs.

## Other Intellectual Property

1. Trade and Service Marks: Trade and service marks are distinctive words or graphic symbols identifying the sources, product, producer, or distributor of goods or services. Trade or service marks relating to goods or services distributed by the University shall be owned by the University. Examples include names and symbols used in conjunction with computer programs or University activities and events. Consult the Vice President of Academic Affairs for information about registration, protection, and use of marks.

2. Proprietary Information: Proprietary information arising out of University work (e.g., actual and proposed terms of research agreements, financial arrangements, or confidential business information) shall be owned by the University. “Trade secret” is a legal term referring to any information, whether or not copyrightable or patentable, which is not generally known or accessible, and which gives competitive advantage to its owner. Trade secrets are proprietary information.

## Explanation of Terms

1. Copyrightable Works: Under the federal copyright law, copyright subsists in “original works of authorship” which have been fixed in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. These works include:

- Literary works such as books, journal articles, poems, manuals, memoranda, tests, computer programs, instructional material, databases, bibliographies;
- Musical works including any accompanying words;
- Dramatic works, including any accompanying music;
- Pantomimes and choreographic works (if fixed, as in notation or videotape);
- Pictorial, graphic and sculptural works, including photographs, diagrams, sketches and integrated circuit masks;
- Motion pictures and other audiovisual works such as videotapes; and  
Sound recordings.

2. Scope of Copyright Protection: Copyright protection does not extend to any idea, process, concept, discovery or the like, but only to the work in which it may be embodied, illustrated, or explained. For example, a written description of a manufacturing process is copyrightable, but the copyright only prevents unauthorized copying of the description; the process described could be freely copied unless it enjoys some other protection, such as patent.

Subject to various exceptions and limitations provided for in the copyright law, the copyright owner has the exclusive right to reproduce the work, prepare derivative works, distribute copies by sale or otherwise, and display or perform the work publicly. Ownership of copyright is distinct from the ownership of any material object in which the work may be embodied. For example, if one purchases a videotape, one does not necessarily obtain the right to make a public showing for profit.

The term of copyright in works created on or after January 1, 1978, is the life of the author plus seventy years. Copyright in works-for-hire is for ninety-five years from the date of first publication or one hundred twenty years from creation, whichever period first expires.

3. Works for Hire: "Work for hire" is a legal term defined in the Copyright Act as "a work prepared by an employee within the scope of employment." This definition includes works prepared by employees in satisfaction of sponsored agreements between the University and outside agencies. Certain commissioned works also are works for hire if the parties so agree in writing.

The employer (i.e., the University) by law is the "author," and hence the owner, of works for hire for copyright purposes. Works for hire subject to this principle include works that are developed, in whole or in part, by University employees. Where a work is jointly developed by University employees and a non-University third-party, the copyright in the resulting work typically will be jointly owned by the University and the third party. In such instances, both the University and the other party would have nonexclusive rights to exploit the work, subject to the duty to account to each other. Whether the University claims ownership of a work will be determined in accordance with the provisions of this policy, and not solely based upon whether the work constitutes a work-for-hire under the copyright law. For example, copyright in pedagogical, scholarly or artistic works to which the University disclaims ownership under this policy shall be held by the creators regardless of whether the work constitutes a work-for-hire under copyright law. Only the Vice President of Academic Affairs may relinquish University ownership in a work for hire.

## Digital Millennium Copyright Act

This documents Saint Leo University's procedures for compliance with the sections of the Digital Millennium Copyright Act (DMCA), enacted in 1998 that deal with online copyright infringement liability limitation. Complete copies of the U.S. copyright law, incorporating the DMCA provisions, are online as Acrobat PDF format and as text format and a complete copy of the [DMCA Act](#) itself is available. See also the Copyright Office's subsequent [required studies](#) are available online. A [directory of agents](#) is maintained by the U.S. Copyright Office.

## **Agent for Notification of Claims of Infringement**

To notify Saint Leo University administration of a claim of infringement of copyright, please contact our Agent for Notification of Claims of Infringement. The designated University Agent to receive written claims of copyright infringement under the Digital Millennium Copyright Act is:

Steven Carroll, Chief Information Officer  
University Campus MC2066  
PO Box 6665  
Saint Leo University  
Saint Leo, FL 33574-6665

E-mail (preferred): [Steven.Carroll@saintleo.edu](mailto:Steven.Carroll@saintleo.edu)

FAX: 352-588-8123

## **Reporting Claims of Infringement.**

A written notification of claimed infringement must be sent to the SLU Agent from the alleged copyright owner (Complaining Party) that includes substantially the following:

1. A physical or electronic signature of a person authorized to act on behalf of the Complaining Party. As an electronic signature the University will accept FAX or a digitized image of the signature attached to e-mail.
2. Identification of the copyrighted work claimed to have been infringed.
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or disabled, including information reasonably sufficient to permit the University to locate the material. For example, include the URL.
4. Information reasonably sufficient to permit the University to contact the Complaining Party, such as address, telephone number, and e-mail address.
5. A statement that the Complaining Party has a good faith belief that the use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
6. A statement that the information in the notification is accurate, and under penalty of perjury, that the Complaining Party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

## **Counter Notification of Replacement**

The User may provide a counter notification to the Agent, responding to the notification from the Complaining Party. A counter notification must be a written communication provided to the Agent that includes substantially the following:

1. A physical or electronic signature of the subscriber.
2. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.
3. A statement under penalty of perjury that the User has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.
4. The User's name, address, and telephone number, and a statement that the User consents to the jurisdiction of the Federal District Court for the judicial district in which the address is located, or if the User's address is outside the United States, for any judicial district in which the University may be found and that the User will accept service of process from the person who provided notification or an agent of such person.

Once the complaining party receives the User's claim, the DMCA permits the University to restore materials or access within two weeks -- unless the Complaining Party serves notice that it intends to seek a court order to restrain infringement. University policy may mandate for other reasons that materials or access not be restored, and some other investigation may proceed.

The DMCA does not alter the fair use provision of the fair use provisions of U.S. copyright law.



See the [NACS copyright sources](#) page for more information.

# Peer-to-Peer File Sharing and Copyright Law

## Peer to Peer Filing Sharing

Campus computer networks are often used to reproduce and distribute copyrighted music, movies, television shows, pictures, and software through the use of peer-to-peer (P2P) networks. P2P file sharing applications allow a computer to connect to a P2P network, and once connected, make it possible to download and share files with other users on the network. When Saint Leo University receives a complaint from a copyright holder, the University notifies the individual involved and passes along any information received from the copyright holder to that individual. The University does not supply any information to the copyright holder about the individual involved unless a valid subpoena is presented.

## Legality of Peer-to-Peer Filing Sharing

P2P technologies have many legitimate uses. However, Peer-to-Peer (P2P) networking and file sharing is not allowed on the Saint Leo University network or systems under any circumstances.

First offenses will result in a notice from University Technology Services to cease illegal activity. Failure to comply or further incidents of infringement may result in further disciplinary action including but not limited to suspension and loss of network access for the infringing computer. Sanctions may include suspension of network access (meaning loss of Saint Leo email account and course web site access) and other formal University disciplinary action.

## Penalties for Violation of Copyright

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code).

These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505.

Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

For more information, please see the Web site of the U.S. Copyright Office at [www.copyright.gov](http://www.copyright.gov).

Saint Leo University supports all Federal Copyright Laws. Students using any campus resource, including the campus data network are required to follow this law.

## Alternatives to Illegal File Sharing

[Educasue](#) maintains a comprehensive list of Legal Downloading Resources. Members of the Saint Leo University community are encouraged to take advantage of these legitimate sources of digital content. For additional reading on intellectual property issues, and copyright in particular, see these online resources.

1. [The American Library Association](#);
2. [Bitlaw on technology law](#);
3. [Digital Millennium Copyright Act at EDUCAUSE](#);
4. [Intellectual property law](#)
5. [U.S. Copyright Office](#)