



## **Angelo State University Operating Policy and Procedure**

### **OP 76.01: Copyright Ownership and Administration**

**DATE:** October 14, 2021

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to ensure understanding and a standardized approach regarding the handling of materials controlled by a copyright.

**REVIEW:** This OP will be reviewed in May every three years, or as needed, by the Office of the Provost with recommended revisions forwarded through the provost and vice president for academic affairs to the president.

### **POLICY/PROCEDURE**

This policy outlines and delineates the position of Angelo State University with regard to copyright of qualifying material produced by its employees during their terms of employment with the University; seeks to balance fairly reasonably the equitable rights of authors, sponsors, and the University; and insures that any copyrightable material in which the University has an equity is utilized in a manner consistent with the public interest.

#### **1. University Copyright**

The ownership by the University of the copyright interest in any material shall in no way obligate the University to publish or bear the expense of publication of said material. Such publications, if copyrighted by the University, shall include the following statement on the copyright page:

Copyright © (year) by Angelo State University

All rights reserved. Except for use in a review, the reproduction or utilization of this work in any form or by electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, and in any information storage and retrieval system is forbidden without the written permission of the publisher. The copyright page should not make reference to the college, department, or any individual involved, including the author.

#### **2. Publications by Commercial Publishers**

Faculty members who author publications without the direct financial support of Angelo State University (other than use of the Library and regularly assigned office space) may apply for and hold the copyright to such publications. Included within this category are faculty publications which result from prior teaching and research activities and where no prior written conditions were imposed by the University or contracts or agreements entered into between the faculty member and third parties for specific research or teaching activities to be funded by the University.

Should an employee (faculty or staff) be successful in negotiating with a commercial publisher, the University will surrender its claim to copyright provided that all financial obligations to the University have been satisfied. The employee should request through the Dean of the College of Graduate Studies a statement of financial obligations incurred by the University in connection with the publication. The Dean of the College of Graduate Studies, after consultation with the appropriate administrative officers, will notify the employee of the obligations to the University which must be fulfilled before the publication may be copyrighted by the employee.

Exceptions to the above may exist for projects funded partially or fully by agencies outside of the University. Details as to copyrights for such projects will be determined in the terms of the grant or contract, if applicable, at the time that the University accepts the grant or contract.

### **3. Guidelines for Instructional, Research, and Library Use of Copyrighted Material**

It is the policy of Angelo State University to follow the provisions of federal Copyright Law (Title 17 U.S.C.). Copyright is a constitutionally conceived property right which is designed to promote the progress of knowledge by securing for an author or creator the benefits of his or her original work for a set period of time. All University employees have a responsibility to recognize and honor the rights of the copyright owner. This policy applies to all forms of duplication of print and digital materials and to any administrative, educational, and research use.

Copyright is a form of legal (Title 17 U.S.C. §106) protection provided to authors of original works and applies to both published and unpublished works. Copyright protection is available for “original works of authorship fixed in a tangible medium of expression” (Title 17 U.S.C. §102). Generally, U. S. copyright protection for works created on or after 1 January 1978, begins automatically at creation and lasts until 70 years after the author’s death. Anonymous and corporate works last 95 years from the date of publication, or a term of 120 years from the year of the creation, whichever comes first. (Title 17 U.S.C. §302 (a)) Works created prior to 1 January 1978 are also subject to copyright protection although the duration may vary from the terms described above. (Title 17 U.S.C. §303) The fact that a previously published work is out of print does not affect its copyright. Acknowledging the source of the copyrighted material does not substitute for obtaining permission.

The liability for willful copyright infringement rests with the employee. Angelo State University will not supply legal assistance to the employee. Angelo State University employees with questions regarding Copyright infringement may consult the Library Director. Civil and criminal penalties may be imposed for copyright infringement. (Title 17 U.S.C. §502, 503, and 504)

Copyrightable works (in any tangible form of expression) may include literary works; musical works; dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; and sound recordings. (Title 17 U.S.C. §102 (a))

Some categories of materials that are not eligible for copyright protection may include works not fixed in a tangible form of expression, titles, names, short phrases, slogans, ideas, procedures, methods, systems, and works consisting entirely of information that is common

property and containing no original authorship. (37 Code of Federal Regulations §202.1(a) and 202.1(d))

Uncopyrighted works published before 1 January 1978 may be photocopied without restriction. Copies of works from that period protected by copyright must bear a copyright notice, which consists of the symbol “©,” the word “Copyright,” or the abbreviation “Copr.,” plus the year of first publication and the name of the copyright owner. (Title 17 U.S.C. §401) Works with expired copyrights may be photocopied without restriction. Before copying any work, information concerning the copyright status of any work should be obtained from the owner or the U. S. Copyright Office.

Unpublished works, such as theses and dissertations, may be protected by copyright. If such a work was created before 1 January 1978, and has not been copyrighted or published without copyright notice, the work may still be protected under the Copyright Act for the life of the author plus 70 years. (Title 17 U.S.C. §302-303)

All U. S. Government publications The U.S. Government may receive or hold copyrights “transferred to it by assignment, bequest, or otherwise.” (Title 17 U.S.C. §105)

“Fair Use” allows for the use of copyrighted works without the permission of the owner(s). The following four criteria must be met before copyrighted materials meet the fair use standards: 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 of the work used in relation to the copyrighted work as a whole; and the effect of the use in question upon the potential market for or value of the copyrighted work (Title 17 U.S.C. §107 (1-4)). The distinction between “fair use” and infringement may be unclear and not easily defined. Educational use alone is not sufficient to make a use in question a fair one.

For use in the classroom, limited copying may be permissible for personal research as well as for distribution in the classroom. Multiple copies (not to exceed more than one copy per student) may be made by or for the instructor giving a course for classroom use or discussion, provided that the copying meets the tests of brevity and spontaneity; meets the cumulative effect test; and each copy includes a notice of copyright. Copying should not be used to create or replace anthologies, compilations, or collective works. There should be no copying of or from works intended to be consumables in the course of study or teaching. These include workbooks, exercises, standardized tests or test booklets, and answer sheets. Copying should not substitute for the purchase of books, reprints, or periodicals; be directed by higher authority; or be repeated with respect to the same item by the same instructor from semester to semester without permission. No charge should be made to the student beyond the actual cost of photocopying. For additional information on this topic and concerning musical works and on the use of audiovisual works see Title 17 U.S.C. §110. For information on the educational uses of computer software see Title 17 U.S.C. §101.

At the request of a faculty member, the Library may photocopy and place on reserve excerpts from copyrighted works in accordance with a reasonable interpretation of the guidelines for fair use. These guidelines apply to the Library’s reserve service to the extent that the service functions as an extension of classroom readings or reflects an individual student’s right to photocopy for his or her personal educational use. If the request calls for only one copy to be placed on reserve, a library may photocopy an entire article, an entire chapter from a book, or an entire poem.

Requests for multiple copies on reserve should meet the following guidelines: the amount of material should be reasonable in relation to the total amount of material assigned for one term of a course taking into account the nature of the course, its subject matter and level; the number of copies should be reasonable in light of the number of students enrolled, the difficulty and timing of assignments and the number of other courses that may assign the same material; the material should contain a notice of copyright; and the effect of photocopying the material should not be detrimental to the market for the work (Title 17 U.S.C. §107(1, 3-4) and 401). A faculty member may also request that multiple copies of photocopied, copyrighted material be placed on the reserve shelf if there is insufficient time to obtain permission from the copyright owner. If in doubt as to whether a particular instance of photocopying is fair use for placing an item on reserve, the publisher's permission should be obtained.

When a use of reproduced material requires permission, the instructor or researcher should communicate complete and accurate information to the copyright owner. The American Association of Publishers suggests that the following information be included in a permission request letter: Title, author and/or editor, and edition of material to be duplicated; exact material to be used, giving amount, page numbers, chapters, and if possible, a photocopy of the material; in the case of videotapes, dates of broadcast and length of excerpt in minutes; use to be made of duplicated materials; form of distribution; whether or not the material is to be sold; and type of duplication. The request should be sent, together with a self-addressed return envelope, to the permissions department of the publisher or producer. The Copyright Clearance Center also has the right to grant permission and collect fees for photocopying rights for certain publications.

For digitized source use in the classroom and for distance learning purposes, Angelo State University follows the copyright laws of the United States. Fair use guidelines and the new provisions of the "Teach Act" will be observed in the Library, classroom, and in distance learning classes.

For use of digitized materials in the classroom or in distance learning classes, the following guidelines should be observed by all ASU faculty members. Only the students officially enrolled in the class have access to the digitized materials. Digitized materials for the class are available only for the length of the semester in which the class is taught. Access and availability ceases at the end of the semester. Fair use guidelines should govern the amount of material digitized from each work or the total amount digitized for each class. All digitized materials must contain a copyright protection notice.

**For additional information on the use of copyrighted materials in the classroom, distance learning courses, and library reserves, please access the University of Texas' "Crash Course in Copyright." <http://copyright.lib.utexas.edu/l-resgen.html>**