Fair Use and Copyright Best Practices Guidelines for Faculty, Staff, and Students

General Practices
- Always use copyrighted works owned or obtained by Earlham Libraries whenever possible. Personal copies are not the preferred source for materials.
  - Keep in mind that ownership of a copy of a work (having legally purchased something) is not the same as ownership of the underlying copyright for what has been purchased.
- Always provide copyright attribution when using copyrighted materials (articles, essays, excerpts from books, and all types of media), giving the proper citation information in presentations, bulletins, and all forms of writing.
  - Post a statement about use of copyrighted materials in each course within Moodle, such as: "**COPYRIGHT NOTICE: The materials on this course Web site are only for the use of students enrolled in this course for purposes associated with this course and may not be further disseminated.**"
- Always limit access to copyrighted materials via course-specific password protection (e.g. in courses within Moodle), use technology protections to prevent downloading and distribution, and educate students not to duplicate or distribute.
- Always determine the setting/context in which copyrighted material will be used: classroom, chapel, sermon, Sunday School, public event, etc. Fair use typically applies to the classroom, while chapel at the seminary (as an educational setting) is less clear. Sermons in congregations and public events are typically not covered by "fair use."
- Always determine the format in which your use of copyrighted material will occur: written (of various genres), oral presentation, presentation with slides, etc.
- Always conduct a "fair use analysis" prior to using materials. See the *Fair Use Checklist*.
- Always modify your use if it is not appropriately fair use, or obtain permission to use copyrighted material from the rights holder with assistance from Earlham Bookstore.
- Always obtain public performance rights if planning to screen a film/DVD/video for more than the students enrolled in a course. Viewings in the context of churches, youth groups, and other church-related events are also subject to copyright laws. Church is typically not considered an educational context, and thus sermons do not typically quality as "fair use." Companies offer licenses to show clips and full media in such settings, such as the Church Video License or ScreenVue from CCLI.
- Copyrighted material being used in its entirety (i.e. not within the limits covered under fair use) is best made available in class or by placing physical copies on reserve in at Lilly Library.
- Copyrighted materials should not be made available over consecutive semesters in Moodle (repetitive use).
- Linking to copyrighted works is always best, when possible. For example, instead of placing a PDF copy of an article from the JSTOR database in a course within Moodle, use within Moodle a link to a stable URL present on each article page in JSTOR. Ask a librarian (particularly, Karla Fribley) to help create such links.

<u>"How Much Can I Use?": Fair Use Practices</u>

- According to US Copyright Office: "Under the fair use doctrine of the US copyright statute, it is permissible to use limited portions of a work including quotes, for purposes such as commentary, criticism, news reporting, and scholarly reports. There are no legal rules permitting the use of a specific number of words, a certain number of musical notes, or percentage of a work. *Whether a particular use qualifies as fair use depends on all the circumstances.*" (italics added; see the "four factors of fair use" on the *Fair Use Checklist*; www.copyright.gov/help/faq/faq-fairuse.html).
- The "four factors of fair use" are used to determine whether use of copyrighted materials is appropriately under "fair use" or not. These are: purpose of the use; nature of the copyrighted material; amount copied; effect on the market for original. See the *Fair Use Checklist* contained within this document for more detail.
- While the Four Factors are helpful, practices based on broader academic library community and legal precedents suggest that "less is always best" when using copyrighted works for educational purposes, including scholarly research or teaching.
- A helpful (and humorous) illustration of fair use called "A Fair(y) Use Tale" can be found at (https://www.youtube.com/watch?v=CJn_jC4FNDo). A detailed 2012 report from the Association of Research Libraries on Fair Use is available.

- Guidelines for "amounts" of material that can be used (remember: "less is best").
  - Print Materials, owned or obtained by Earlham Libraries or otherwise legally acquired
    - Books, without chapters or fewer than 10 chapters (including collection of essays): <u>10%</u>. Count the *total* number of pages, including indices and bibliography.
    - Books, with 10 or more chapters: one chapter.
    - A single article in a single journal issue, magazine issue, or newspaper issue
    - A short story (i.e. a work of fiction) or a short poem. Use of poetry and short stories, especially in public or reprinting, can be complicated and expensive.

  - Graphics/Images/Online Videos
    - A single cartoon, chart, diagram, drawing, graph, or illustration
    - Always try to employ "free to use or share" images if resorting to Google Images (filter by "Usage Rights"), or turn to resources such as Wikimedia Commons. Look for images with a Creative Commons license, and follow the terms therein.
    - With online videos (such as found on YouTube), linking to them is best rather than embedding.
    - You are not responsible for another person's copyright violation (i.e. what is on YouTube or another website), but you are responsible for your own use of that material (i.e. identifying where you found it or used it appropriately).
    - It is a best practice to provide the source information for where you located material online (images, websites, videos), following appropriate citation style.

- Audiovisual Content on DVDs or other media (Films, Television, etc) and Music
  - It is permissible for all instructors to extract short clips from DVDs for educational purposes. Note that clips do not constitute wholesale streaming of audiovisual material and it does not cover the entirety of the work.
  - The Four Factors apply to audiovisual content as well.
  - The same permission extends to: "university film and media studies students," "documentary filmmaking," and "noncommercial videos".
  - See US Copyright Office, Section 1201 Exemptions to Prohibition Against Circumvention of Technological Measures Protecting Copyrighted Works.
  - See Music Publishers FAQ (http://www.mpa.org/content/copyright-faq) for more information on photocopying print scores.
  - A digital audio file owned or obtained by Earlham Libraries or otherwise legally acquired may be available to students via systems that limit access to students enrolled in the course. The Music Library Association (http://copyright.musiclibraryassoc.org) offers additional copyright resources.

- Music in chapel and at events
  - The same guidelines as above apply, but with additional concerns.
  - When using music (whether lyrics, notes, or both) in the context of singing and worship (but not a concert or performance), it is important to include the appropriate copyright license information either on the projected screen or on the bulletin or both. Bethany Theological Seminary has two different licenses for music use: CCLI (#1967782) and OneLicense (#A-722650). If you are not doing this as part of the Bethany community, then your organization needs to use its own license numbers.
  - When using music in chapel or at events, please consult the databases on the websites for CCLI and OneLicense to verify that the song(s) is covered. If it is not in the database, then it is not covered. It does not matter whether it appears in the hymnal or other printed songbooks. The song must appear in at least one of these databases in order to be covered by Bethany's license.
  - Typically, if the music publisher is covered in the database, then all of the publisher's songs are covered.
  - If the song is not in either database, then it cannot be used legally without other permissions being obtained.
  - If the chapel service (or other event containing worship) is webcast, streamed, or made available as a podcast, the OneLicense covers the use (same license #) and we have a different license number with CCLI (#CSPL062425). OneLicense is valid for as many as 100 people while the CCLI is valid for up to 199 people. Again, if you are not doing this as part of the Bethany community, then your organization needs to use its own license numbers.
  - The largest music database is BMI. Licenses or single-use fees are available for materials that may not be covered by the more traditionally church music oriented licensing groups, CCLI and OneLicense.

- o Public Domain
  - Some works are considered to be in the "public domain" and therefore not governed by copyright regulations.
  - There are a few clear principles to determine if something is "public domain".
    - Anything published prior to 1923 is in the "public domain".
    - Typically, copyright expires 70 years after the death of the author.
    - Anything published after 1923 may or may not be in the "public domain" depending on whether the original copyright was renewed or not.
    - Cornell University has developed a helpful chart for determining if something is in the "public domain". See: https://copyright.cornell.edu/resources/publicdomain.cfm
  - Stating "Public Domain," when appropriate, replaces the copyright, license, or permissions notice (on presentations, in bulletins, or in courses within Moodle).

Questions about copyright, fair use, permissions, and copyright compliance should be addressed to the following:

Steven Schweitzer, Academic Dean, 765.983.1815
Neal Baker, Library Director, 765.983.1355