

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 2	General Policies and Procedures	Effective:	December 2000
Section 2.3	Legal Affairs	Revised:	May 2013
Policy 2.3.2	Use of Copyrighted Materials	Responsibility:	Chief Legal Officer

USE OF COPYRIGHTED MATERIALS

Policy

It is the policy of the Health Science Center to follow the U.S. Copyright Law of 1976, as amended, (Title 17, United States Code, hereinafter, the Copyright Act). Accordingly, all faculty, staff, and students of the Health Science Center should follow these policy guidelines:

1. Only copyrighted materials are subject to the restrictions in this policy. Uncopyrighted 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 U.S. 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. Works published prior to March 1, 1989, generally require a copyright notice to be protected. U.S. Copyright Office, Circular 22, at <http://www.copyright.gov/circs/circ22.pdf> explains how to determine the copyright status of a work.
2. Copyrighted software may be copied without the copyright owner's permission only in accordance with the *Copyright Act* at <http://www4.law.cornell.edu/uscode/17/>. Section 117 of the *Copyright Act* permits making an 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 archival copy permitted by the *Copyright Act*. Each software license agreement is unique. As a result, the user's rights to copy licensed software beyond that which is permitted under the *Copyright Act* may only be determined by reading the user's license agreement. Any copying or reproduction of copyrighted software on University of Texas System or Health Science Center computing equipment must be in accordance with the Copyright Act and the pertinent software license agreement. Further, faculty, staff, and students of the Health Science Center may not use unauthorized copies of software on The University of Texas System or Health Science Center owned computers or networks or computers housed in The University of Texas System or Health Science Center facilities.

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3. Copyrighted materials may be copied or otherwise used without the copyright owner's permission where such copying constitutes "fair use" under the *Copyright Act*.
 4. Permission should be obtained from the copyright owner in order to copy or otherwise use materials, including software, music, audio/video/film clips, drawings, etc. where:
 - a. the materials are copyrighted;
 - b. use exceeds what is permitted by license; and,
 - c. the four factor fair use (see Fair Use of Copyrighted Materials section below) test indicates that the use is likely not fair, permission should be obtained from the copyright owner.
 5. If permitted by state law and procedures, The University of Texas System may defend any faculty or staff of the Health Science Center against a civil action alleging copyright infringement:
 - a. where the use is in accordance with the provisions of a valid software license agreement;
 - b. where the permission of the copyright owner has been obtained; or
 - c. where the Office of General Counsel has determined that the use is otherwise permissible.

Otherwise, faculty or staff of the Health Science Center will be personally responsible for the defense of a civil action for copyright infringement.

6. The Health Science Center is responsible for posting notices reflecting this policy at all computer and photocopying stations which may be used for reproducing copyrighted materials, e.g., departmental copy rooms and libraries, and at or near all computer stations. The following is a suggested notice:

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“Copyright Notice”

“Copying, displaying and distributing copyrighted works, may infringe the owner’s copyright. The University of Texas System’s policy statement on “Fair Use of Copyrighted Materials” can help you determine whether your use of a copyrighted work is a fair use or requires permission. Any use of computer or duplicating facilities by students, faculty or staff for infringing use of copyrighted works subject to appropriate disciplinary action, as well as those civil remedies and criminal penalties provided by federal law.”

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