

GUIDELINES FOR FACULTY REGARDING ON-LINE, FOR PROFIT, STUDENT SHARING SITES

Students have been sharing notes and resources since Plato founded the first Academy centuries ago. Rumor has it that Aristotle made some spending money by selling his notes about “The Cave”.

Sharing information is nothing new. No university is able to prevent the sharing of materials among students. Informal study groups and friends sharing notes are common and, one hopes, productive endeavors. However, the media in which the information is being shared is what is (relatively) new. The internet does not change any legal analysis when it comes to students sharing class materials and notes, but it does change the scope and impact of sharing materials. It changes how copyright holders must react to infringement and it makes it much more difficult to police copyright infringement. Think of postings on the internet as a student having a magic copy machine that produces an unlimited number of copies. Now imagine that copy machine is in a locked room and you don’t know who supplied the materials to make copies or to whom the copies are going. That is the reality of internet online sharing sites that must be addressed.

A QUICK OVERVIEW OF COPYRIGHT LAW

For the purposes of this guidance, copyright law is pretty straightforward. Artistic, creative, literary, scholarly, and novel expressions are subject to copyright protection. Copyright protection attaches to such works at the time they are preserved in a fixed format – that is, reduced to a retrievable form. If an instructor provides written lecture notes to the class, those notes are protected by copyright at the time they are created. Registration of copyright is not legally required to enforce copyrights. Of course, non-creative and non-original material is not subject to copyright. So, if the notes in a math class contain “ $2+2=4$ ” that portion is not subject to copyright, but, to the extent the notes contain the unique work of the faculty member, the notes taken as a whole are protected by copyright.

Similarly, if a student takes notes of an instructor’s lecture, the notes are the student’s interpretation of the instructor’s lecture and, when placed in a fixed format by the student, are the student’s copyrighted materials. Students may use their “handwritten notes” as they see fit (so long as they are not used for academic misconduct as defined in the Student Code). However, if a student records a lecture the instructor owns the copyright to the recording. So, for example, while instructors hold copyright to the tests that they create they do not own the answers. Providing answers or insights into a pending examination is not allowed under the student code; however, it is (usually) not a copyright violation. Instructors also own the copyright to their syllabus. If you create a document that is the result of your own thought process and put it in a fixed form (and it is non-obvious and not common) you own the copyright.

ENFORCING COPYRIGHT

Copyrights are not self-enforcing. There are no copyright police. A copyright owner must police her/his own copyright. The first step is to provide notice. If copyright infringement concerns you, you may put copyright notice on all your course materials, “© Dr. Smith. All Rights Reserved. Unauthorized posting, duplication or on-line use of this material is strictly prohibited and may lead to Student Conduct charges and other enforcement action.” If you do not want students sharing or posting your copyright protected material, you may put that in your

syllabus as well, in ALL CAPS if you would like, with specific examples. You may state that you own course content you create and students may not post class materials prepared by you on any website or URL link. You may state that if they do, you may choose to submit a student conduct charge. You can explain to them that it is unfair to exploit your hard work and that it actually harms students to cheat rather than helps. Let them know that you actively monitor file-sharing sites. It is, of course, much more difficult to control students informally sharing course content outside any internet posting.

CONTACTING NOTE POSTING WEBSITES

Unfortunately, an essential part of policing your copyright is to monitor its use. Determining whether a student file-sharing site is posting your material is a time consuming administrative headache, but it is unavoidable. If you see that your materials have been posted to such a site there are two immediate concerns.

First, you want the material taken down. Surprising as it may seem, most of those sites are committed, to at least some extent, to protecting the copyright of professors and communicate that on their web page and on the form for submitting material for posting. Course Hero provides this assistance and guidance: “If a user uploaded your copyrighted material to Course Hero without your permission, please submit a DMCA takedown to request removal.”

The Digital Millennium Copyright Act (DMCA) makes it relatively easy to demand that a third party web host remove material from its site that infringes on copyright. Some sites even have sample takedown requests.

The second issue, determining who posted the material and holding them accountable, is more difficult. File sharing sites are extremely reluctant to reveal the identities of those who post to their sites. It would make students much more reluctant to post on the site and disclosure is usually in violation of the site’s privacy policy.

If a student violates your copyright by posting to such sites, it is entirely proper to make a student conduct complaint. A faculty member may not impose her or his own sanction on the student, but must forward the matter to the Office of Student Conduct for adjudication. Likewise, if a student uses a wmich.edu student email account to solicit for a commercial note purchasing company, that should also be reported to Student Conduct. Use of University email for private commercial activity is prohibited by University policy. See: <http://wmich.edu/it/policies/computingrules>.

In the event you have continuing concerns or would like clarification on these guidelines please contact the Faculty Senate or the Office of Student Conduct.