

University of California Policy on Copyright and Fair Use – Consolidated Comments from Formal Review

General Comments:

Academic Council:

“the policy in its current form is premature and incomplete,” “The real need ... is for neutral advisors who are available to assist faculty in understanding Fair Use factors and making an informed judgment about what is and is not Fair Use. Neither the new policy nor the UC Copyright Website provides an adequate level of guidance for individual faculty members seeking to avoid copyright violations.”

The Academic Council wants assurance “that the university will defend employees who reproduce copyrighted materials in the good faith belief that they are doing so in compliance with the law.”

The Council also suggested that the UC Copyright website’s navigation and content be improved (no specific suggestions).

UCSD Vice Chancellor Gary Matthews:

“It is good to see that the 1986 version was finally revised and a much simpler statement made in its place.”

From UC Santa Cruz (unknown authors):

“This Policy strikes me as much more of a statement of principles and educational information than a policy. Given that there are no actual policy requirements in this policy, I think it would be reasonable to add or link to definitions of "Copyright" and "Fair Use", and relegate much of the educational information to UC's Copyright website instead of the policy. The statement of principles ("Policy Text") could then be simpler: (I didn't re-word any of the language, I just deleted some and re-arranged.)

The University has a societal obligation to promote the wide dissemination of information and knowledge to and among its students and faculty, as well as the public at large, as part of its overall educational and research mission. The University encourages both respect for the copyrights of content creators as well as the thoughtful invocation of fair use principles by content consumers within the bounds set forth in U.S. copyright law to support those goals.

The University strongly believes that the right of content creators to control the use of their work is vital in maintaining a free flow of ideas in our society. The University also strongly believes that the right of content consumers to access copyrighted works under fair use to further disseminate knowledge is paramount for the promotion of academic freedom, creative expression, education and instruction, and ultimately, the full participation by all members of society in furthering the pursuit of knowledge. Faculty, staff, and students of the University of California may wish to use materials created by other people for the purposes of teaching, learning, research, or public service. The University encourages the appropriate use of such material within the restrictions and permissions of the United States Copyright Law.

Whether a particular use of copyrighted content constitutes fair use is outside the purview of this policy statement. General copyright advice is available at <http://copyright.universityofcalifornia.edu>, and the University encourages all members of the University community to review that information and to contact their campus counsel office or the Office of General Counsel when further advice may be needed.”

“I am writing you today in my capacity as **Chair of Environmental Studies**. Back on April 7th, Scott Brandt circulated a draft of a proposed revision of the UC Policy on Copyright and Fair Use and asked for comments. I took the draft to members of my department. Although other concerns might have been raised had we had more time to consider the proposed revision, one glaring issue was immediately obvious to us:

We were concerned to see that the draft does not set out all the specifics of the proposed policy; at a key point it merely points to a URL external to the draft itself. Is it possible, we wondered, that the content of the URL can be changed at some future date without that requiring further consultation with the faculty, effectively changing the policy, without consultation, through such URL changes? We are concerned with the possibility that substantive changes can be made, later, this way. Agreeing to a document whose content can be understood only by accessing a website that may or may be edited at some later date strikes us as something akin to signing an empty check (not to be overly dramatic about it...)”

“The theoretical foundations and moral assumptions implicit within the neoliberal construct of "intellectual property" is as much a restriction on progress as it is a failed attempt to prevent cheating. From its less than noble beginnings, the notion of copyrights have been utilized by hegemonic institutions to exert monopoly and control over ideas, something that is inherently not subject to any notion of property. As such it is the duty of those who uphold such copyright laws to be wary of any attempt at copyright, as it can not be shown to be anything other than a self-centered act. In the words of the hippies, "you can't own ideas, man". For as long as copyright exists there will be a wasteful and eternal struggle over what constitutes infringement and what does not. [etc. etc.]”

[Jeffrey A Tabas, M.D., Professor of Emergency Medicine and Office of Continuing Medical Education, UCSF:](#)

“Seems very important to state that interpretation of the guidelines for fair use are beyond the purview of this document (Whether a particular use of copyrighted content constitutes fair use is outside the purview of this policy statement.), but seems critical to include what they actually are [lists the 4 factors of fair use].”

[Rex Kerr, Research Associate, Kenyon Lab, UCSF:](#)

“A revision to the old policy is certainly called for. However, I do not find the new document worthwhile, as it provides no guidelines whatsoever on fair use. Either the policy should contain brief summary guidelines to assist individuals with fair use decisions, or it should contain only the text "This document has been superseded by the University of California Copyright web site: (URL)". As it is, having the document is simply a maintenance burden, draining the time and effort of University staff, faculty, and students to maintain and read.

I approve of the text outlining the goals of the University to protect copyright as appropriate while enabling its teaching and research mission. But this statement can go on the web site.

Jeff.Belkora@ucsf.edu:

“I wonder if the copyright policy should also refer to the generation of copyrights by faculty and others. My understanding, and my current practice, is that I (not the University) own all copyrighted materials related to my scholarly work (unless other arrangements are contractually specified with outside funders). This is increasingly important in the age of distance learning/online teaching/MOOCs etc. That might be worth clarifying.”

“I have also found it very helpful to use the Creative Commons mechanism to share/license my copyrighted materials with non-profit organizations, while retaining the copyright control for possible future licensing to commercial entities, ie without putting materials into the public domain.”

Comments on Specific Portions of the Policy:

Policy	Comments
<p>Policy Summary: It is the policy of the University to encourage the wide dissemination of information and knowledge for its teaching, research, and public service mission, while also complying with copyright law.</p>	<p>Consider changing “complying” to something like: “The University therefore wishes to encourage the appropriate use of such material within the spirit and the letter of the United States Copyright Law...” (from the old Policy on the Reproduction of Copyrighted Materials)”</p>
<p>Policy Text: Faculty, staff, and students of the University of California may wish to use materials created by other people for the purposes of teaching, learning, research, or public service. The University encourages the appropriate use of such material within the restrictions and permissions of the United States Copyright Law.</p> <p>Copyright is a property right guaranteed in the United States Constitution to creators of original works. Content creators are granted certain exclusive rights with respect to their work, including the right to reproduce, modify, distribute, perform, display, and publicly perform their work in all media. Because these rights are exclusive, content creators may also prohibit others from using their work without permission. The University strongly believes that the right of content creators to control the use of their work is vital in maintaining a free flow of ideas in our society.</p> <p>However, copyright law also provides a limited</p>	<p>James Frew, UCSB Faculty and SLASIAC member: “The new draft copyright policy says: ‘Copyright is a property right guaranteed in the United States Constitution to creators of original works.’ which is incorrect. The Constitution says: ‘The Congress shall have Power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries’</p> <p>I.e. the Constitution gives Congress the power to enforce copyrights, for a specific purpose and for ‘limited times.’ It doesn't *require* Congress to do so.”</p> <p>Suggest changing text to: “Copyright is a limited property right granted by Congress to creators of original works.”</p>

<p>right to reproduce, modify, distribute, display, and publicly perform works created by others for certain purposes including, for example, criticism, comment, news reporting, teaching, scholarship, or research, among others. This right is known as fair use. The University also strongly believes that the right of content consumers to access copyrighted works under fair use to further disseminate knowledge is paramount for the promotion of academic freedom, creative expression, education and instruction, and ultimately, the full participation by all members of society in furthering the pursuit of knowledge.</p> <p>The University has a societal obligation to promote the wide dissemination of information and knowledge to and among its students and faculty, as well as the public at large, as part of its overall educational and research mission. The University encourages both respect for the copyrights of content creators as well as the thoughtful invocation of fair use principles by content consumers within the bounds set forth in U.S. copyright law to support those goals.</p> <p>Whether a particular use of copyrighted content constitutes fair use is outside the purview of this policy statement. General copyright advice is available at http://copyright.universityofcalifornia.edu, and the University encourages all members of the University community to review that information and to contact their campus counsel office or the Office of General Counsel when further advice may be needed.</p>	
<p>Procedures:</p> <p>See the UC Copyright Website: http://copyright.universityofcalifornia.edu</p> <p>The University encourages all members of the University community to review the information on the website, and to contact their campus counsel office or the Office of General Counsel when further advice is needed.</p>	<p>Council of University Librarians:</p> <p>Change the wording of “all members of the University community” to “all faculty, staff, and students” (consistent with Policy text and also don’t necessarily want to include alumni, etc.)</p>