

BERKELEY COLLEGE COPYRIGHT POLICY

I. Overview

Original “works of expression,” such as writings, graphics, photographs, and music, may be protected from unauthorized use by the federal copyright laws. The symbol © is often used to indicate that the material is subject to copyright restrictions, but not all copyrighted content will display the symbol. Copyright laws govern whether – and to what extent – you are permitted to perform, display, or copy such works or to create new works derived from them without first receiving permission from the holder of the copyright (often the author or publisher of the original).

The copyright laws are complex, particularly as they apply to digital media. For example, under some circumstances downloading information from websites, downloading music from a peer-to-peer application, or even mere copying and pasting of copyrighted materials (such as an article, photo, sound or video clip from the web) may constitute infringement. In fact, websites may even have materials copyrighted by one owner embedded within materials that have been copyrighted by a different person (such as music within a video excerpt, or a photo on a web page). Moreover, just because content is publicly available does not mean that you are free to use it without permission. Much of the information you may find posted on popular social media sites has been posted without the consent of the copyright holder, and using it could constitute infringement.

II. Fair Use

Certain limited copying of published materials without permission may be allowed under the “Fair Use” doctrine. Whether portions of a copyrighted work may be copied without permission is determined by evaluating four factors: the purpose for which it is being used (for example, is the use for educational or commercial purposes?); the nature of the work being copied (is it factual or creative?); the size of the excerpt being used (most of the work or only a small portion?); and the effect it would have on the market value of the original work if such copying were widespread. So, for example, it may be permissible to copy a quote or short excerpt from a copyrighted work (acknowledging the author), but copying an entire photograph or song may constitute unlawful infringement.

III. Obtaining Copyright Permissions

In certain circumstances, written permission may be required in order to use copyrighted material. Such permission should be obtained in writing (by letter or email) from the copyright owner or the copyright owner’s authorized agent.

IV. Prohibited Conduct

The Berkeley College community is expressly prohibited from using the Berkeley College network or computing resources to access peer-to-peer sites that permit unauthorized copying of copyrighted music, photographs, video, or other legally protected materials. Such activities will be treated as violations of this policy. Depending on the nature and circumstances, such activities may also be violations of the College's Conduct Policy, Student Electronic Information Policy, and/or Academic Integrity and Plagiarism Policy (which can be found in the Berkeley College Undergraduate Catalog and Student Handbook, available online at <https://berkeleycollege.edu/academics/publications/index.html>).

Use, display, performance, transmission, or copying of any content to which Berkeley College holds a copyright without express written permission is strictly prohibited.

V. Reporting Procedures

1. Actual or suspected unauthorized use or distribution of copyrighted materials by a student should be reported to either (a) the Office of Student Development and Campus Life; or (b) the appropriate Department Chair or Dean within the Academic Administration.
 - a. Faculty who suspect that the unauthorized use may also be a violation of the College's Academic Integrity and Plagiarism Policy should complete and submit the Academic Integrity Violation Report e-Form.
 - b. Alleged violations that are academic in nature will be addressed by the Department Chair and/or Dean within the Academic Administration.
 - c. Alleged violations that are related to conduct will be addressed by the Office of Student Development and Campus Life.
 - d. Alleged violations that are both academic in nature and implicate Conduct Policy violations will be jointly addressed by the appropriate Dean within the Academic Administration and the Office of Student Development and Campus Life.
2. Actual or suspected unauthorized use or distribution of copyrighted materials by a faculty member should be reported to the appropriate Dean within the Academic Administration.
3. Actual or suspected unauthorized use or distribution of copyrighted materials by a staff member should be reported to the staff member's supervisor.
4. Copyright owners and/or authorized agents should refer to DMCA Designated Agent and DMCA Takedown Notice sections below.

VI. Sanctions & Penalties

Berkeley students and associates are required to comply with the copyright laws. Failure to do so may be grounds for disciplinary action and may subject the infringer to significant legal consequences (including civil and criminal penalties).

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For "willful" infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505. Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

For more information, visit www.copyright.gov and the U.S. Copyright Office FAQ page at www.copyright.gov/help/faq.

In addition to legal penalties, students may be subject to disciplinary action. If a student has violated the copyright law, he or she may be directed to immediately remove or delete the alleged infringing material and/or cease the file-sharing activity. In addition, the College may suspend or terminate the student's access to the College's network and/or systems, and may impose additional sanctions up to and including suspension or dismissal from the College.

VII. Addressing Infringement and Unauthorized Distribution

Berkeley College uses technology-based deterrents (such as firewalls) to reduce the unauthorized distribution of copyrighted materials and provide protection against malicious content. The College has installed systems that attempt to block offensive material and restrict access to other sites that have been known to violate copyright laws.

Information about this policy and prohibited file-sharing is provided in new student orientation handouts. Additionally, such information is available in the Student Handbook (<https://berkeleycollege.edu/academics/publications/index.html>) and the College's Consumer Information webpage (<https://berkeleycollege.edu/about/administration/general-counsel/consumer-information/index.html>).

Berkeley College faculty may utilize online software or services to help identify whether an assignment is the original work of the student.

This plan will be periodically reviewed by the Office of the General Counsel, the Information Systems Department, the Office of Student Development and Campus Life, and the Office of the Provost to evaluate and assess its continuing effectiveness.

VIII. Legal Alternatives

EDUCAUSE, a nonprofit association, has compiled a list of several legal alternatives for accessing online content. Some online services may charge membership fees. The list is available at: <https://www.educause.edu/legalcontent>.

IX. DMCA Designated Agent

Written notice of copyright infringement allegations should be directed to:

Berkeley College
Office of the General Counsel
Attn: Copyright Designated Agent
44 Rifle Camp Road
Woodland Park, NJ 07424
Phone: (201)-291-1111
Email: legal@berkeleycollege.edu

X. DMCA Takedown Notice Requirements

Copyright owners (and/or their authorized agents) must provide written notice of their infringement claim to the College's Designated Agent, and such notice must include:

1. Identification of the copyrighted work alleged to be infringed (if more than one work, provide an itemized list of works);
2. Identification of the material alleged to be infringing or which is the subject of the infringing activity (including information about where the material is located);
3. Contact information of the copyright owner or authorized agent (address, phone number, and email address);
4. A statement that the copyright owner or authorized agent has a good faith belief that use of the material is unauthorized;
5. A statement that the information in the notice is accurate and, under penalty of perjury, that the agent is authorized to act on behalf of the copyright owner; and
6. A physical or electronic signature of the person authorized to act on behalf of the copyright owner.

XI. Takedown Procedures

Upon receipt of a valid and complete takedown notice, the College will, in a timely manner, remove and/or block access to the alleged infringing material. Following the removal and/or blocked access to the alleged infringing material, the Designated Agent will notify the complaining party (copyright owner or the authorized agent) via email that the material has been removed and/or that access has been blocked.