ACADEMIC ALERT #2002-20

DATE: **November, 2002**

DECISION: **Fair Use of Copyright**

Update of AP 308 of the Faculty Guidebook - Policy on the Fair Use of Copyrighted Materials

IMPLEMENTATION DATE: September 18, 2002

CONTACT:

SIGNATURE:

Dr. John A. Brighton
Provost and Senior Vice President for Academic Affairs

National-Louis University Policy on the Fair Use of Copyrighted Materials
AP: 308

Approved: President's Cabinet Date: September 4, 2002
Approved: Faculty Senate Date: September 18, 2002

EFFECTIVE DATE: September 18, 2002

What Is Copyright?

Copyright protects "original works of authorship fixed in any tangible medium of expression."[1] Copyright generally extends automatic protection to any original expression of creative work that is recorded in any tangible form,[2] published or unpublished. This includes any such work preserved on a computer hard drive or on floppy disks, computer tapes, or other electronic formats.

Because a copyright notice is not required for copyright protection, most works – including fiction and nonfiction writings, musical scores and performances, scripts and performances of dramatic works, and works of art – should be presumed to be protected by copyright. The notable exception to this rule is the category of works published by the United States Government, which are in the public domain from the time of first publication according to law.

Copyrighted materials are subject to restrictions on duplicating and distribution. They may be copied or otherwise used without the owner's permission *only* when such use constitutes a "fair use"[3] as defined in the United States Copyright Law of 1976, as amended (Title 17, United States Code, hereinafter, COPYRIGHT ACT). In all other instances, users must obtain permission from the copyright owner in order to use the copyrighted work.

National-Louis University's Commitment to Copyright Compliance

As an institution of higher learning, National-Louis University complies with the COPYRIGHT ACT. This commitment includes the full exercise of the rights associated with the "fair use" provisions of the COPYRIGHT ACT.

In an effort to facilitate compliance with the COPYRIGHT ACT and fair-use rights, National-Louis University shall:

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[11] 17 USC 102 (a).

[2] 17 USC 101. "A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanents or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration."

[3] 17 USC 107. A "fair use" can be determined by examining four factors: "(1) the purpose and character of the use, inluding whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the the potential market for or value of the copyrighted work." 17 USC 107.

1. Inform and educate its faculty, staff, and students of the rights and limitations set forth in the COPYRIGHT ACT.
2. Work through the University's Office of the General Counsel, in conjunction with the Office of the Provost, to provide copyright advice to faculty and staff.
3. Designate a compliance officer who will deal with questions or complaints related to the use of copyrighted materials.
4. Avoid creating or supporting policies or agreements that would restrict fair-use rights.

Responsibilities

National-Louis University recognizes that the COPYRIGHT ACT stipulates that the individual user will bear the ultimate responsibility for the reproduction, use, and distribution of copyrighted and copyrightable materials. Accordingly, the University requires all members of its community to be responsible for determining what materials can be copied, the amounts that can be copied, and the identification of situations wherein additional permission must be granted. However, the University also recognizes its reciprocal obligation to its users to educate and encourage them to make responsible decisions concerning the fair use of copyrighted materials.

Users' rights and responsibilities, and the procedures for assuring good-faith compliance with copyright and fair-use principles, are outlined in the University's "Guidelines for the Fair Use of Copyrighted Materials."