

Copyright Policy

Birthingway's copyright policy fosters a community that supports and respects the rights of authors of original works, as well as helps educate the campus community on the general principles of U.S. Copyright Law and proper use of copyrighted materials.

The unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing and illegal downloading, is a violation of Birthingway's Code of Conduct, and may subject violators to civil and criminal liabilities, as well as institutional sanctions.

Copyright Overview

The following information is a brief summary of the U.S. Copyright law (Title 17, US Code) and is not a full representation of the finer points of the law. Birthingway encourages students, staff and faculty members to educate themselves on the nature and scope of copyright protection and infringement. For more information on copyrighting, please visit the U.S. Copyright Office website at <http://www.copyright.gov>.

The U.S. Copyright law is a form of intellectual property law, protecting "original works of authorship fixed in tangible medium of expression" and encompasses works that fall into the following categories:

- *Literary works*
- *Musical works, including accompanying words*
- *Dramatic works, including any accompanying music*
- *Pantomimes and choreographic works*
- *Pictorial, graphic, and sculptural works*
- *Motion pictures and other audiovisual works*
- *Sound recordings*
- *Architectural works*

Protection extends to both published and unpublished works. Owners of these original works of authorship are given exclusive rights to their works and the ways in which it is used. This includes, but is not limited to, dissemination, reproduction, sale, performance, display and licensing of the work. To use a copyrighted work, one must obtain permission from the holder of that work. According to the law, copyright protection does not apply to ideas, systems, concepts, and procedures that may be embodied or described in a work.

As a Birthingway student, you may wonder when it is fair to use a copyrighted work for limited, educationally-related purposes. The U.S. Copyright law does include a "fair use" provision that looks at the following:

1. *How a piece of work is being used, whether not-for profit, commercial purposes or otherwise.*
2. *The nature of the copyrighted work, such as whether the work is a workbook, scientific article, poem, or musical score, etc.*
3. *The amount of the copyrighted work that is being used as related to the whole work.*
4. *The impact of the use on the market value of the work.*

All four factors are reviewed qualitatively and are open to interpretation. Fair Use should only be thought of as a legal defense against accusations of copyright infringement. In other words, while included in U.S. Copyright Law, it is not an exception to seeking permission for use of the work, but may be used as a defense that would have to be proved in a court of law in case of accusation of copyright infringement. When Fair Use becomes infringement is not a line that is easily defined and, when in doubt, it is best practice to seek permission from the holder of the copyrighted work. For information on how to seek permission for use of a copyrighted work, please contact the Learning Resources Coordinator.

Copyright Policies Specific to the Birthingway Network

Use of Birthingway's computer network is limited to educationally related activities. Users of the Birthingway network are prohibited from participation in the unauthorized distribution of copyrighted materials, including illegal Peer-to-Peer file sharing and the illegal uploading or downloading of unauthorized copyrighted materials. If found in violation of this policy, users may face civil and criminal liabilities, as well as institutional sanctions. "User" is defined as any person--student, faculty, staff and/or community member--using the Birthingway network.

All users logging on the Birthingway network from a personal computer must agree to abide by the Digital Millenium Copyright Act (DMCA) before being allowed to log on.

Peer to Peer (P2P) file-sharing

Peer-to-peer (P2P) file-sharing is a method of sharing files between two computers without the use of a server. When you visit a website, you are connecting to a server that has the website files on it. P2P software lets you use any desktop or laptop computer as a server for other computers on the P2P network. Because of this, people are able to share large files (like movies and music) without regard to copyright protection that would be imposed on a company hosting a server.

Products such as Limewire, BitTorrent, Kazaa and, before coming into compliance with copyright law, Napster are examples. These products serve as an excellent way to share large documents or files, but using them to copy movies, music, books or other copyrighted material is against the law and in violation of the DMCA.

There are many free, legal options for P2P file-sharing. Birthingway is required to provide alternatives and does not exclusively endorse the following recommendations. Two popular services are [Hulu](#) for television and movies and [Pandora](#) for music. A comprehensive, regularly updated list of legal (some free and some paid) options can be found at [Educause legal downloading site](#).

Civil/Criminal Liabilities for Copyright Infringement

Penalties for copyright infringement are severe. Those found guilty of infringement may have to repay actual damages or actual profit loss suffered by the copyright holder. If the court elects for statutory damages to be paid, fines run from \$750-30,000. Cases in which the courts determine the infringement was "willful", courts may award damages for up to \$150,000 per work and may also include a prison sentence of up to five years and fines of up to \$250,000. You are responsible for any civil and/or criminal liabilities imposed by outside authorities, and any trial costs and/or attorney fees.

Institutional Disciplinary Procedure

Federal regulations require Birthingway to inform our students of disciplinary procedures specifically related to copyright infringement. As copyright infringement is a violation of the Student Code of Conduct. Such violations of the copyright policy may be ground for dismissal. Violators of the copyright policy may alternatively be required to research and write a paper related to copyright law, in order to further educate individuals and the campus community.