

1. GENERAL

Sam Houston State University (University or SHSU) respects the rights of authorship granted to individuals and/or organizations under applicable copyright law. To that end, the University complies with the [Texas State University System \(TSUS\) Rules and Regulations](#) regarding ownership and use of intellectual property. This policy has been adopted to ensure that faculty, staff, and students work in an environment consistent with all applicable copyright laws. The TSUS Rules and Regulations shall govern in the event of any actual or perceived conflict with any provision of this policy.

2. DEFINITIONS

Copyright: Copyright is the ownership and control of the intellectual property that in *original works of authorship* as soon as an author (single or group) *fixes* the work in a **tangible form of expression**. Works are *original* when they are *independently created* by a human author and have at least a minimal degree of creativity; *independent creation* simply means that you create it yourself, without copying. A work is *fixed* when it is captured (either by or under the authority of an author) in a sufficiently permanent medium such that the work can be perceived, reproduced, or communicated for more than a short time. Copyright can apply to many types of works, including but not limited to books, journals, software, musical works, dramatic works, videos, multimedia products, sound recordings, and pictorial and graphical works.

Creator: An individual who invents, discovers, authors, or otherwise develops intellectual property in the form of written works, sound recordings, paintings, renderings, drawings, photographs, software, etc.

Derivative Work: A copyrighted creation based on pre-existing works, including an adapted form of an original work on the permission of the owner of the copyright of the original Copyrighted Work.

Digital Millennium Copyright Act (DMCA): A United States copyright law that criminalizes production and dissemination of technology, devices, or services intended to circumvent measures (commonly known as digital rights management) that control access to copyrighted works. It also criminalizes the act of circumventing access controls, whether or not there is actual infringement of copyright itself. In addition, the DMCA heightens the penalties for copyright infringement on the Internet and extends the reach of copyright, while limiting the liability of online service providers.

Fair Use: Fair use is defined by [17 U.S.C. § 107](#): “The fair use of a copyrighted work,

including such use by reproduction for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.” Fair Use is an exception to the copyright holder’s exclusive rights and permits unlicensed use in circumstances in which the balance of several factors weighs in favor of such use.

- Elements of Fair Use. Fair use is a legal determination. According to 17 U.S.C. § 107, the four factors of fair use are:
 - “The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes.”
 - “The nature of the copyrighted work”
 - “The amount and substantiality of the portion used in relation to the copyrighted work as a whole.”
 - “The effect of the use upon the potential market for or value of the copyrighted work.”
- The [Fair Use Index](#) from the U.S. Copyright Office elaborates more on how to understand these factors as applied by the courts.

Permission: Express written authorization from a copyright holder to engage in one or more of the rights reserved to the creator under copyright law. Depending on the type of work, several organizations exist to help individuals obtain copyright permissions. Obtaining permission to use copyrighted material may require payment of a fee.

Premises: For purposes of music licensing and performances only, both dramatic and non-dramatic, Premises shall mean the SHSU campus and associated facilities, and any other facilities owned, leased, or temporarily rented by the University.

Private Performance: A performance held in a non-public, non-commercial setting with a limited number of people in attendance.

Public Domain: Works which are not subject to copyright and may be used freely by anyone. A vast number of works fall within the Public Domain and include works that were published before copyright laws came into existence, works for which the copyright has expired, works for which copyright protection was lost or never acquired, works placed in the Public Domain by the owner, or works never entitled to copyright protection.

Public Performance: To perform or display a work “publicly” means (1) to perform or display the work at a place open to the public or any gathering of a substantial number of persons outside of family or friends, such as showing a video in a restaurant or other public

venue or charging admission; or (2) to transmit a performance or display of the work to the public, by means of any device or process. See 17 U.S.C., § 101.

Software: Programs, routines, and symbolic languages that control the functioning of computer hardware and direct its operation.

Work: An original expression, fixed in a tangible form, including such as print, analog or digital recording, that may be entitled to copyright protection.

3. USE OF COPYRIGHTED WORKS

- 3.01 This policy applies to the use of copyrighted materials by faculty, staff, and students. Specific information relating to course reserves can be located on the Library's website; additionally, this policy does not address library photocopying or digitization, which may be permitted under other sections of the copyright law, e.g., [17 U.S.C. § 108](#).

Copyright grants the Creator of a work exclusive rights to engage in, or permit others to engage in, specific actions with a work, including reproduction, preparation of derivative works, distribution, and public performance or display ([17 U.S.C. § 106](#)).

Except as allowed by law, faculty, staff, and students may not reproduce and distribute copyrighted material, use copyrighted material to prepare a derivative work, or publicly perform copyrighted material without permission of the copyright holder, in accordance with [17 U.S.C. § 106](#).

- 3.02 Public Domain – Materials that are in the Public Domain can be freely used without permission since they are not protected by copyright (for more information, see the public domain section of the [Copyright and Fair Use Guide](#)).
- 3.03 TEACH Act Exception ([17 U.S.C., § 110\(2\)](#)) – In 2002, the Copyright Act was amended to include a limited exemption for certain specific instructional uses of copyrighted works. The exception applies only to some digital distance education courses offered through accredited, nonprofit, educational institutions. Some uses that do not fall under the TEACH Act may be allowed as Fair Use. Due to the complexities of the TEACH Act, faculty are advised to complete [the TEACH Act Checklist](#) in consultation with the University Copyright Officer to determine whether the TEACH Act or fair use is an appropriate exception.
- 3.04 Fair Use Exemption – The University is committed to complying with all applicable copyright laws. The Fair Use doctrine is codified at [17 U.S.C. § 107](#). Faculty and

staff may need to photocopy or digitize material to supplement research and teaching in support of the University's mission in the development and transmission of information. The intent behind a copyright-infringing use is not a factor in the enforcement of copyright law; as such, the person using materials is ultimately responsible for ensuring that their use complies with relevant statutes and laws.

Guidelines to assist faculty, staff, and students in evaluating fair use of copyrighted material can be found in the library's [Copyright and Fair Use Guide](#). Additionally, it is strongly encouraged that faculty, staff, and students consult with the University Copyright Officer before relying on the Fair Use exception.

- 3.05 License Agreements – Some copyrighted works are made available through license agreements, in which case the terms of the agreement supersede the copyright law. Any materials offered subject to a license may only be used in accordance with the terms of the license. Types of agreements include Terms of Use, Creative Commons Licenses, click-through agreements, and university-wide agreements with providers of electronic resources (e.g., library research databases, campus-wide software licenses, etc.). When using materials licensed by Sam Houston State University (e.g., licensed software, streaming video, images, etc.), users are expected to comply with all provisions of the agreement.

Administrative heads (e.g., director of the School of Music, dean of Students, director of Auxiliary Services, etc.) must fulfill the terms and conditions of applicable licensing agreements, including any recordkeeping or reporting requirements.

- 3.06 Permission – Permission from the copyright holder is required if no exemption or exception applies. Examples include the use of materials for commercial purposes or use of an entire work (for additional information, consult the [permissions section of the Copyright and Fair Use Guide](#)). For works whose copyright is owned by the University, permission may be granted by the Provost & Senior Vice President for Academic Affairs, or designee.
- 3.07 Online Tools and Services – Rights afforded under copyright law are protected regardless of the format or location of the work. Faculty, staff, and students shall ensure that any content placed within learning, course, or content management systems, whether located on SHSU information resources or on third-party operated information systems, adheres to copyright laws and the provisions of this policy.
- 3.08 Video – Purchasing, renting, or borrowing a video normally allows personal use of the copy if the use is consistent with the distributor's terms of use. Other uses (e.g.,

distribution, display, streaming, duplication, creation of derivative works) are generally prohibited without permission or a license from the copyright owner.

The use of university-produced videos is subject to copyright protection and requires prior permission.

The following is a non-exhaustive listing of examples of a *public performance* (i.e., conditions when permission or a public performance license is required):

- performances in lounges, recreation areas, auditoriums, and public areas of residence halls and apartments, the Lowman Student Center, and similar buildings;
- Showing a video after using publicity to invite the audience to the showing (e.g., mass emails, flyers, or web postings);
- charging admission to the showing or to an event in conjunction with the showing; and
- streaming.

The following are examples in which the showing of a legally obtained video does not require permission or a public performance license:

- showing a video to a small group of family or personal friends;
- showing a video during “face-to-face” teaching activities in a classroom or similar place devoted to instruction, viewed only by the instructor and registered members of the course, and materially-related to course needs (see 17 United States Code, Section 110(1))—**except** in cases where Terms of Use (e.g., with a personal subscription to a service such as Netflix) take precedent;
- showing a video that has an express license authorizing the particular manner of showing (some educational videos come with licenses to show them for certain noncommercial institutional purposes); and
- showing a video that is in the public domain (see the public domain section of the [Copyright and Fair Use Guide](#)).

Options for procuring videos with public performance rights are listed in the [Copyright and Fair Use Guide](#).

Specific guidelines apply to the recording of programs for classroom instruction from television broadcast companies, including ABC, CBS, NBC, Fox, and PBS. These guidelines do not apply to the recording of cable television programs. Permission must be sought from the individual cable network or channel prior to using a recorded cable program for classroom instruction purposes.

- 3.09 Musical Performances –The recording or performance of copyrighted music may or may not require permission, depending on the intended use of the recording or the location of the presentation of the performance.

The doctrine of “Fair Use” also applies to performances of musical works, and the TEACH Act provides specific exemptions for certain non-dramatic musical works.

The copyright law applies to live performances by musicians, as well as to video or audio recordings regardless of media, with the exception of the items listed below:

- Private Performances; and
- operating an ordinary radio or television in public.

- 3.010 Reproduction Equipment – Equipment capable of reproducing copyrighted works is available to faculty, staff, and students in publicly-accessible areas throughout the University. A notice of copyright must be posted in close proximity to all such self-service equipment or at the point of electronic access where reproduction takes place. The department responsible for the equipment is also responsible for posting the appropriate notice. This notice should also be posted where appropriate in an online environment. Examples of reproduction equipment include, but is not limited to, scanners, printers, microform printers, computers, analog and digital recorders.

- 3.011 Software – Faculty, staff, and students shall comply with the license agreements and usage terms of all university-provided software. Faculty, staff, and students shall not use SHSU resources to install, use, or distribute software in any manner that infringes the software owner’s copyright, terms of use, or licensing restrictions.

Specific responsibilities of individual faculty, staff, and students regarding use of computer software are more fully described in the SHSU Acceptable Use Policy (IT-03).

4. INFRINGEMENT AND PENALTIES

- 4.01 Copyright Law and Infringement – Copyright infringement is the act of exercising one or more of the exclusive rights granted to a copyright owner without legal authority, permission, or statutory exception. Copyright infringement is a violation of federal law and university policy and can result in significant civil and criminal legal penalties.

Suspected infringements of copyrights owned by SHSU should be reported to the University Copyright Officer. Individuals who believe their own copyrights have been infringed should seek legal counsel.

- 4.02 Individuals who utilize the University's network or other information resources to infringe the copyrights of others risk the loss of network access privileges. Repeat offenders are subject to additional disciplinary action pursuant to applicable SHSU policies and/or Texas State University System Rules and Regulations. Unlawful unauthorized sharing of copyrighted digital materials violates the Digital Millennium Copyright Act (DMCA) and exposes the perpetrator to serious civil and criminal penalties.
- 4.03 The TSUS Office of Internal Audit may conduct audits of individual users, departments, and the University to document compliance with copyright law and software licensing agreements. Under federal law, violations can result in significant civil and criminal penalties.

APPROVED: <signed>
Alisa White, Ph.D., President

DATE: 9/26/2025

CERTIFICATION STATEMENT

This academic policy statement (APS) has been approved by the reviewer(s) listed below and represents SHSU's Division of Academic Affairs' policy from the date of this document until superseded.

Original: December 8, 1989
Reviewer(s): Academic Affairs Council

Review Cycle: Five years*
Review Date: Fall 2030

Approved: <signed>
Sumanth Yenduri, Ph.D.,
Provost and Sr. Vice President
for Academic Affairs

Date: 9/26/2025

*Effective January 2018, Academic Policy Statements will be reviewed on a rotating 5-year schedule. To transition to a distributed review load, some policies may be reviewed prior to the 5-year timeframe, with subsequent reviews transitioning to the 5-year schedule.