

INTELLECTUAL PROPERTY OWNERSHIP & COPYRIGHT CONSIDERATIONS

BAPTIST MEMORIAL COLLEGE OF HEALTH SCIENCES

ADMINISTRATION

POLICY AND PROCEDURE MANUAL

EFFECTIVE DATE: AUGUST 20, 2002

SECTION: GENERAL POLICIES

Objectives:

To delineate ownership of authored materials and courses.

To define copyright compliance expectations.

Policy:

Commitment

BMCHS is committed to complying with all Federal laws relating to copyrights and other ownership of intellectual property.

I. Intellectual Property Ownership

The following outlines ownership rights and responsibilities regarding intellectual property produced by an employee of the Baptist Memorial College of Health Sciences (BCHS) and third parties under contract to BCHS. For purposes of this policy, intellectual property is, to the maximum extent allowed by law, intended to include all work product which applicable law would define or recognize as being intellectual property. This policy is subject to all applicable Federal and Tennessee laws. All work product, including instructional materials and courses become the proprietary property of BCHS when created by employees and contracted parties carrying out their duties and responsibilities to BCHS. As such, BCHS holds all legal rights to the work product and each employee and contracted party must take all reasonable steps requested by BCHS to vest the intellectual property rights to the work product in BCHS. In light of the foregoing policy, no additional compensation above their salary (for purposes of this policy, "salary" includes overload and overtime compensation) shall be paid to employees for their work product created as a BCHS employee nor shall any third party providing a work made for hire to BCHS be paid any amount greater than what is set forth in his/her contract, All revenues derived from any employee work product or work made for hire shall inure solely to the benefit of BCHS.

Except as allowed by applicable law, neither the work product nor any part of the materials used in developing the work product may be reproduced, transmitted, stored or retrieved in any form or by any means, without the advanced written consent of BCHS. When contracting with external parties, each agreement between BCHS and such third party shall include language wherein the external party acknowledges that 17 U.S.C. § 201 (b) is expressly applicable to that party's engagement by BCHS and that any work product the external party prepares pursuant to his/her engagement with Baptist is a "work made for hire" as defined by the foregoing statute.

II. Use of Copyrighted Materials

All materials, regardless of format or creator, are subject to compliance with Tennessee and United States copyright laws, and all appropriate permissions will be secured by the users of the copyrighted materials. If the materials are used in a course, the permissions will be placed in the course shell in the BCHS learning management system. BCHS librarians can assist in obtaining necessary permission upon request.

Employees and students must use only lawfully acquired copyrighted works when incorporating any other party's materials into their work product. This would include the use of student-created materials by BCHS employees. When contracting with external parties, each agreement between BCHS and such external party shall include language wherein the external party agrees to incorporate into their work product only lawfully acquired copyrighted works.

Ordinarily, use of copyrighted material without the permission of the copyright owner is a violation of the rights of the copyright owner. The particular use of a copyrighted work will not be an infringement of the copyright if it is considered a "fair use" under Section 17 U.S.C. § 107, et seq. The determination as to whether a given use amounts to a fair use is made on a case-by-case basis and is very much dependent on the specific facts of the use. No single factor is determinative; that is, there is no one fact about the use at issue that will automatically make it fair or unfair. All factors must be examined and the conclusions as to each weighed and balanced.

Employees and students are advised to exercise great caution in using digital material downloaded from the Internet. Source pages on the Internet frequently contain both copyrighted works and works in the public domain. Access to work on the Internet does not automatically mean that these can be reproduced or reused without permission or royalty payment. Furthermore, some copyrighted works may have been posted to the Internet without authorization of the copyright holder.

III. Copyright Infringement

Unauthorized distribution of copyrighted material in various electronic and print formats may subject the person distributing the material to civil and criminal liabilities. 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 access costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505.

IV. Peer to Peer File Sharing

Peer-to-peer file sharing programs allow an unknown individual to search and download files from your computer, and are most often used to share copyrighted, illicit, or illegal material anonymously. Use of any such program on the BCHS or Baptist Memorial Health Care Corporation networks is strictly prohibited.

If such a program is determined to be on any computer under the control of BCHS or Baptist Memorial Health Care Corporation, the program will be removed. Sanctions may include computer privileges being terminated, and the employee or student being subject to further campus disciplinary action, up to and including dismissal from BCHS and/or termination of employment.

Employees and students must contact the Customer Support Center at 227-7777 BEFORE installing any program that may contain peer-to-peer program functionality.

Approved: Betty Sue McGarvey August 6, 2014
Administrator Date

Revised: 6/06; 12/12; 10/13; 12/13; 1/14; 5/14; 6/14; 8/14
Reviewed – no changes 9/07

PROCEDURE

Faculty/Staff

1. Faculty/Staff request permission to use copyrighted materials from the author/owner.
2. Faculty/Staff notifies the librarians of document(s) approved.
3. Faculty/Staff places approved documentation within the course shell on the learning management system.
4. Instructional Designer checks random sample of courses each trimester in accordance with coordinator of master schedule and makes appropriate notification to faculty/staff, if needed.
5. Librarian offer to assist any faculty member or staff who do not have appropriate permission to post materials.

Students

1. Students will seek assistance from a librarian if there is a question regarding material incorporated in a course assignment being copyrighted and/or requiring appropriate permission.
2. Students will learn about copyright compliance through library resources posted on the library home page.