Policy Office Memo

To: UVU Board of Trustees

From: Linda Makin, Chief Planning, Budget & Policy Officer
       Cara O’Sullivan, Policy Officer

Date: June 21, 2012

Subject: Policies Submitted for Board of Trustees Approval

The following policies have been processed through the “Regular” process as outlined in Policy 101 and are submitted for your review and approval:

   UVU Policy 135 Use of Copyrighted Materials
   UVU Policy 204 Appropriateness of Expenditures
   UVU Policy 331 Performance Evaluation for Staff Employees
   UVU Policy 334 Probationary Period for Staff Employees
   UVU Policy 371 Corrective Actions and Termination for Staff Employees

Summary of Changes to Policy 135 Use of Copyrighted Materials

To comply with the Higher Education Opportunity Act (HEOA), Policy 135 required the addition of one passage about the Digital Millennium Copyright Act. Specifically, the HEOA required us to add the following:

“Copyright infringement or illegal peer-to-peer (P2P) file sharing may subject students and/or employees to civil or criminal penalties (see Title 17, United States Code and/or the Digital Millennium Copyright Act (DMCA)).”

In order to comply by July 1, 2011, the Trustees approved a temporary emergency policy on June 16, 2011.

The attached policy includes the above addition and reflects other revisions including:

- Clarification of who appoints members to the Committee for Use of Copyrighted Materials
Refinement of the role and function of the Committee including the Committee's role in assisting with compliance and advising campus community members about copyright

Requirement that notification and advisement of potential copyright infringement must be documented

Summary of Changes to Policy 204 Appropriateness of Expenditures

In December 2011, the Trustees approved a temporary emergency policy regarding required approvals of expenditures. This limited scope policy revision has now been processed through the Regular approval process outlined in Policy 101. This substantive revision is indicated in blue underline and strikeout.

The Policy Office is in the process of reformatting all existing policies into a new format for web publication in an updated policy management system this August. This reformatting process includes a full editorial review for identification of non-substantive changes (titles, punctuation, grammar). This policy has been reformatted; several non-substantive changes were made. Policy 101 requires that the Board be notified of these non-substantive changes; as such, a memo detailing the non-substantive changes is included in this policy packet.

Summary of Policies 331 Performance Evaluation for Staff Employees, 334 Probationary Period for Staff Employees, and 371 Corrective Actions and Termination for Staff Employees

As Human Resources began their review/revision of existing policies 331 Performance Management System for Non-Faculty Staff and 371 Probation, Discipline, Dismissal, and Termination, the Associate Vice President for Human Resources recommended that the policies be reorganized into three separate policies. These three policies were considered as a bundle and moved through the policy review process together.

Policy 331 Performance Evaluation for Staff Employees
Existing Policy 331 was extremely out of date and contained details which are more appropriate for Human Resource operating guidelines. The section on the probationary period has been moved to Policy 334. Clarifications were made on the length and frequency of the review cycle, responsibility for ensuring employees receive timely reviews, and process for employees to appeal reviews with which they may disagree.

Policy 334 Probationary Period for Staff
This new policy encompasses the probationary period content of existing policies 331 and 371. This separate policy clarifies the principle that the probationary period is not a disciplinary action but an evaluative period for new staff employees.
Summary of UVU Policy 371 *Corrective Actions and Termination for Staff Employees*  
The section on probationary period has been moved to Policy 334. The language of  
discipline, dismissal, and termination are reframed to corrective actions which may lead  
to involuntary termination. The existing policy included executives; this revision does  
not. Executives are subject to Policy 309 *Executive Employees: Recruitment,  
Compensation, Termination*. The policy includes an appeals procedure for staff  
employees.
Proposed Policy Number and Title: 135 Use of Copyrighted Materials

Existing Policy Number and Title: 135 Use of Copyrighted Materials

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*See UVU Policy #101 Policy Governing Policies for process details.

Draft Number and Date: Stage 4, 4.26.2012
President's Council Sponsor: Linda Makin
Policy Steward: Jacques d'Emal

POLICY APPROVAL PROCESS DATES

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Policy Office personnel who verified and posted this policy to the University Policy Manual
Name: __________________________
Date posted and verified: MM/DD/YYYY
1.0 PURPOSE

1.1 The purpose of this policy is to outline the responsibilities of members of the campus community with respect to federal laws regarding copyrighted materials. This policy sets forth the rights and responsibilities of the University, its faculty, staff, and students in their roles as members of the campus community in use of copyrighted works using University resources. This policy establishes coordination for the dissemination of information about the use of copyrighted materials.

2.0 REFERENCES

2.1 Copyright Act of 1976, (Title 17 of the United States Code) as amended

2.2 Digital Millennium Copyright Act (DMCA)

2.3 UVU Policy 371 Probation, Discipline, Dismissal, and Termination

2.4 UVU Policy 541 Student Rights and Responsibilities

2.5 UVU Policy 648 Faculty Personnel Reduction

3.0 DEFINITIONS

3.1 Campus community: All University employees, full- and part-time faculty and staff, visiting faculty members and researchers, full- and part-time students.

3.2 Copyright: A property right in an original work of authorship fixed in any tangible medium of expression giving the holder the exclusive right to reproduce, adapt, distribute, perform, and display the work.

3.3 Copyright infringement: The act of violating any of the copyright owner’s exclusive rights granted by the federal Copyright Act of 1976.

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3.4 Illegal peer-to-peer file sharing (P2P): Downloading, uploading, or electronically distributing substantial portions of a copyrighted work without the permission of the copyright holder, or participating in illegal peer-to-peer services.

3.5 University Copyright Agent: University employee registered with the U.S. Copyright Office as the designated agent to receive notifications of claimed infringement pursuant to Section 512(c)(2) of the Copyright Act of 1976.

4.0 POLICY

4.1 Members of the campus community shall comply with the Copyright Act of 1976, as amended, the Digital Millennium Copyright Act (DMCA), and all subsequent amendments.

4.2 Copyrighted materials may not be copied or otherwise used without the copyright owner’s permission unless such use constitutes fair use or one of the other limitations on exclusive rights specified by the Copyright Act of 1976.

4.3 To facilitate compliance, the University’s Committee for Use of Copyrighted Materials shall inform the campus community in the proper use of copyrighted materials.

4.4 Members of the campus community who willfully and/or repeatedly infringe copyright and/or engage in illegal peer-to-peer file sharing are subject to discipline in accordance with UVU Policy 371 Probation, Discipline, Dismissal, and Termination, UVU Policy 541 Student Rights and Responsibilities, and UVU Policy 648 Faculty Personnel Reduction.

4.5 Copyright infringement and/or illegal peer-to-peer file sharing may subject students and/or employees to civil or criminal penalties as found in the Copyright Act of 1976, as amended, and the DMCA.

5.0 PROCEDURES

5.1 Committee for Use of Copyrighted Materials

5.1.1 The Vice President of Academic Affairs (VPAA) appoints the Committee for Use of Copyrighted Materials (Committee). This Committee shall consist of a chair, the University Copyright Agent, and at least five additional representatives drawn from critical areas with particular concerns or expertise relative to copyright use including, but not limited to, the Faculty Senate, the Academic Affairs Council, Information Technology, and the Library. The chair of the Committee shall report to the library director.

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5.2.1 When the Committee is informed of potential copyright infringement, the Committee shall notify the individual of possible infringement and work with the individual to take corrective action if needed. The Committee shall maintain documentation of such notifications and any corrective actions taken.

5.2.2 In cases of willful or repeated infringement by an employee, the employee's supervisor shall be informed. In consultation with the Committee, the supervisor shall investigate the potential infringement and take action consistent with appropriate university discipline policy.

5.2.3 In cases of willful or repeated infringement by a student, the Office of Judicial Affairs shall be informed and shall take action in accordance with UVU Policy 541 Student Rights and Responsibilities.

5.3 Copyright Compliance with the Digital Millennium Copyright Act (DMCA)

5.3.1 Information and procedures regarding compliance with the Digital Millennium Copyright Act (DMCA) for notification of copyright infringement are available through the University’s Office of Information Technology.
# Utah Valley University Policies and Procedures

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## I. Purpose

1.1 Copyright ownership and accompanying rights are concepts defined by federal law. The purpose of this policy is to outline the responsibilities of members of the university community with respect to federal laws regarding copyrighted materials and to provide resources that assist in carrying out these responsibilities. This policy establishes a mechanism to coordinate the dissemination of information about the use of copyrighted materials and to provide procedures for obtaining answers to questions about permitted uses of such materials.

## II. References

2.1 United States Copyright Law of 1976, as amended (Title 17, United States Code).

2.2 Higher Education Act of 1965 (Pub. L. No. 89-329) (the "HEA") as amended by the HEA.

2.3 Higher Education Opportunity Act of 2008 (Public Law 110-343) (HEOA).

## III. Terms

3.1 Campus Community: Full- and part-time university employees and students

3.2 Copyright Act: United States Copyright Law of 1976, as amended (Title 17, United States Code).

3.3 Copyright: Protection provided for intellectual works by current federal and other applicable statutes. The owner of a copyright retains and controls various rights, including but not limited to the following: to print and reprint copies of the work; to sell or distribute copies of the work; to transform or revise the work; and to perform or display the work to the public.

3.4 Copyrighted works: Include, without limitation, literary works; musical works including accompanying words; dramatic works including accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and audiovisual works; sound recordings; and computer programs and documentation. Both published and unpublished works are under statutory protection. Most works (except those authored by the

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United States Government) should be presumed to be copyright-protected, unless further
information from the copyright holder or express notice reveals that the copyright holder intends
the work to be in the public domain. Works published prior to March 1, 1989, generally require a
copyright notice to be protected. Copyright notice is not required for copyright protection of
works published on or after March 1, 1989. A guide to Copyright Issues in Higher Education
prepared by the National Association of College and University Attorneys (1976) can be found at

3.5 Department: The academic unit

3.6 Digital copyrighted works: Include digital material, software and other technologies used to
support the electronic capture, storage, retrieval, transformation and presentation of digital data
and information or to interface between digital forms and other communications and information
media.

3.7 Fair Use: Use for purposes such as criticism, comment, news reporting, teaching (including
multiple copies for classroom use), scholarship, or research. Fair use is determined in each
particular case by the following four factors:

3.7.1 The purpose and character of the use, including whether such use is of a commercial nature
or is for nonprofit educational purposes;

3.7.2 The nature of the copyrighted work;

3.7.3 The amount and substantiality of the portion used in relation to the copyrighted work as a
whole;

3.7.4 The effect of the use upon potential market for or value of the copyrighted work.

3.8 Supervisor: Head of the unit

3.9 VPAA: Vice President for Academic Affairs

IV. Policy

4.1 Employees and students of the University shall comply with the United States Copyright Law
of 1976, as amended (The Copyright Act) and other legal statutes and regulations governing the
duplication and use of copyrighted materials.

4.1.1 Copyrighted materials may be copied or otherwise used without the copyright owner's
permission where such copying constitutes "fair use" under the Copyright Act. Legal standards
for Fair Use shall be respected fully by the Campus Community.

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4.1.2 A committee at the University, named the Oversight Committee for Use of Copyrighted Materials, shall inform employees and students in the proper use of copyrighted materials. The make-up and role of this committee are outlined in Procedures, below.

4.1.3 Procedures for working with employees who repeatedly infringe copyright are provided in the Probation, Discipline, Dismissal and Termination Policy. Procedures for working with students who infringe copyright are provided in the Student Code policy.

4.1.4 Copyright infringement or unauthorized peer-to-peer file sharing may subject students and/or employees to civil or criminal penalties.

V. Procedures

5.1 Oversight Committee for Use of Copyrighted Materials

5.1.1 An Oversight Committee for the Use of Copyrighted Materials shall be appointed by the President of the University. The Committee shall consist of a Chair, the university Copyright Agent as registered through the United States Copyright Office, and at least five additional representatives from the Faculty Senate, the Dean's Council, the library and other critical areas with particular concerns or expertise relative to copyright use. The members shall be appointed to three-year staggered terms.

5.1.2 The Oversight Committee shall have responsibility for coordinating educational activities to teach members of the campus community about their responsibilities under copyright law and the limitations on use of copyrighted materials.

5.1.3 The chair of the Oversight Committee shall report to an Associate VPAA or other officer as designated by the VPAA and the President. This designated Associate VPAA or officer shall be the university contact person for questions about use of copyrighted materials and may refer questions to the Chair of the Committee.

5.1.4 The Associate VPAA or officer designated by the VPAA shall request information on usage of copyright protected material from the Office of the Attorney General when clarification of law is needed.

5.2 Infringement of Copyright

5.2.1 It is the presumption of this policy that infringement of copyright, when it occurs, is generally not intentional. Therefore, the first action taken when the Committee or other members of the campus community become aware of infringements of copyright is to inform the infringing individual of the violation and work with them to take corrective action.

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5.2.2 If alleged infringement by an employee persists, then the employee’s supervisor shall be informed. The supervisor shall investigate allegations of copyright infringement and take action consistent with university discipline policy.

5.2.3 If alleged infringement by a student persists, then the Office of Judicial Affairs shall be informed and shall proceed in accordance with the Student Code policy.

5.3 Copyright Compliance with the Digital Millennium Copyright Act (DMCA)

5.3.1 Information and procedures regarding compliance with the Digital Millennium Copyright Act (DMCA) for notification of copyright infringement is found in the "Copyright Compliance with DMCA" policy.