

Model Policy: Copyright compliance

Why you need this policy:

Copyright infringement has become a serious liability risk for law firms:

* In 1991, a mid-sized Washington, DC, law firm was sued for \$14 million by a publisher. The case was eventually settled but not until after the firm incurred over \$1 million in legal fees;

* In 1999, a large Wall Street firm settled a copyright infringement case for an undisclosed amount believed to be \$115,000 per year to the Copyright Clearance Center;

* In 2003, a major financial service firm was ordered to pay \$20 million for copyright infringement.

How this policy helps you:

It's imperative for law firms to have a written policy that explains copyright laws and sets out rules on the copying and distribution of copyrighted materials so that staffers don't inadvertently commit infringement.

How to use this policy:

Each law firm must review how it reproduces and distributes copyrighted materials and establish specific policies to avoid infringement. This Model Policy, which comes from the [American Association of Law Firm Libraries](#), covers one crucial aspect of law firm copyright compliance: reproduction of copyrighted materials by the law library and administrative staff.

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Model Policy: Copyright compliance

ABC Law Firm

INTRODUCTORY STATEMENT

1. Statement of policy

The ABC Law Firm does not condone the unauthorized reproduction of copyrighted materials, in any format. Unauthorized reproduction includes copying done beyond that which is permitted under the Copyright Act, if it is done without permission and/or payment of royalties.

2. Purpose of policy

Reproducing copyrighted materials is governed by the Copyright Act of 1976, subsequent legislation,^[1] and interpretive case law. The American Association of Law Libraries (AALL) reaffirms the application of the fair use provision (17 U.S.C. - 107) and the library exemption (17 U.S.C. - 108) in the law firm environment.^[2]

3. Scope of policy

This policy applies solely to the ABC Law Firm library. Firm-wide implementation of the provisions of this policy must be done with the input and advice of ABC Law Firm management.

4. Responsibility statement

Compliance with the Copyright Act is the individual responsibility of every ABC Law Firm employee, including partners, associates, paralegals, other staff members, and independent contractors working at or for the firm.

5. Sources of copies

Under this policy, sources of copies should be the lawfully obtained original copyrighted work, whether found in the library, obtained through inter-library loan from a lending library, or retrieved from an online service or document delivery service that receives permission from or pays royalties to the copyright owner.

6. Definitions

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For purposes of this policy:

- **Copy:** A copy is either: 1) a photoreproduction of text or images via a copier; 2) transmission or downloading of text or images from a computer; or 3) any other replication of text or images by way of electronic means, or other form of transcription.
- **Reproduction equipment:** Reproduction equipment includes photocopiers, printers, scanners, facsimile machines, microform reader/printers, networked workstations and other electronic transmission devices. It is not intended that copyright notices be posted on individual computer workstations throughout the firm.
- **Reproduction centers:** Reproduction centers include areas of the firm staffed by personnel, either employed by the firm or by a third party, who have the primary responsibility for attending to copiers and other reproduction equipment.

7. Signage: notice on equipment

The ABC Law Firm will post the following sign on all reproduction equipment:

- "THE MAKING OF A COPY MAY BE SUBJECT TO THE UNITED STATES COPYRIGHT LAW (Title 17 United States Code)."
- Alternatively, ABC Law Firm may elect to use the following notice recommended by the American Library Association: "THE COPYRIGHT LAW OF THE UNITED STATES (Title 17 U.S. Code) GOVERNS THE MAKING OF PHOTOCOPIES OR OTHER REPRODUCTIONS OF COPYRIGHTED MATERIAL. THE PERSON USING THIS EQUIPMENT IS LIABLE FOR ANY INFRINGEMENT."

8. Signage: notice on copies

The notice of copyright that appears on the original work must be reproduced and affixed to the copy. If no such notice appears on the original work, the printed copy will include the following notice stamped on or affixed to the first page of every copyrighted item reproduced by the library or reproduction center: "THIS MATERIAL IS SUBJECT TO THE UNITED STATES COPYRIGHT LAW; FURTHER REPRODUCTION IN VIOLATION OF THAT LAW IS PROHIBITED."

9. Signage: notice where orders are placed and on request form

The ABC Law Firm library or reproduction center will display the following sign where copying orders are placed, and include this notice on the actual copying request form:

NOTICE

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WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproduction of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use", that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

10. Routing and library reproduction

a. Routing copies: The ABC Law Firm library may route originals and/or copies of tables of contents. When the length of the routing list becomes excessive, ABC Law Firm will purchase additional copies of a copyrighted work. The ABC Law Firm library is cautioned against systematically routing journals with knowledge or reason to believe that recipients will reproduce the articles for later (rather than current) use and to create personal libraries.

b. Copying articles: The ABC Law Firm library or reproduction center may make one copy of an article in response to a specific request from an employee or partner for individual scholarship, research or educational use. Recipients are cautioned against systematic reproduction of articles for later (rather than current) use and creating personal libraries. Although in most instances making subsequent copies from the original copy requires permission, circumstances may exist – such as making a single copy for one client or co-counsel, or for submission to a court^[3] – where the copying may be a fair use.^[4]

Neither the ABC Law Firm library, reproduction center, nor individuals may make multiple copies of articles, or cover-to-cover copies of newsletters, periodical issues or volumes. This practice will be observed for both standard library materials and materials obtained from online services. (NOTE: Because of the typically short length of newsletters, the library or reproduction center, as a general rule, may reproduce only small portions of copyrighted newsletters. Libraries may reproduce tables of contents, but should not solicit requests for copies of articles that would constitute systematic reproduction.)

11. Interlibrary lending/document delivery

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The ABC Law Firm law library may borrow or lend only lawfully obtained original copies of copyrighted materials, or the original copyrighted work.

a. Lending: In response to requests from other libraries, the library may make one copy of an article so long as the requester attests, and the library reasonably believes, that the request complies with the Copyright Act or the CONTU guidelines.^[5]

b. Borrowing: In requesting materials from other libraries, the library may request a single copy of an article or brief excerpts from a book, so long as the request complies with the Copyright Act or the CONTU guidelines. (CONTU suggests that a library subscribe to a journal title if it requests photocopies of articles published in the periodical within five years prior to the date of the request more than five times within a given year).

12. Computer programs

In accordance with Section 117 of the Copyright Act, the ABC Law Firm may make one archival copy of software it has purchased, and may also adapt purchased software so that it can be used on firm equipment. Firm personnel may not load any unauthorized copy of any computer program, or portion thereof, onto any computer, file server, or other magnetic or electronic media storage device belonging to the firm. License agreements must be strictly followed with regard to the use of all authorized copies of software programs. The general rule for software use in law firms is that each copy is for a single computer. A site license should be considered for multiple copies on multiple computers, or for access by multiple simultaneous users.

13. Permissions and royalties

This policy expresses minimum standards of fair use.^[6] Circumstances may exist where copying beyond this policy is permitted under the Copyright Act. However, reproducing materials beyond that which is permitted by this policy generally will require permission, and, when necessary, payment of royalties. Royalties may be made directly to the copyright owner or its agent.

14. Questions/for more information

Please direct any copyright concerns to [*LIBRARIAN AND/OR INTELLECTUAL PROPERTY ATTORNEY*].

Notes:

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[1] Title 17 of the United States Code includes the Copyright Act of 1976 and subsequent legislation.

[2] For an expanded discussion of what constitutes fair use, see the AALL Guidelines on the Fair Use of Copyrighted Works by Law Libraries (revised, January 2001) [hereinafter AALL Fair Use Guidelines], at http://www.aallnet.org/about/policy_fair.asp.

[3] See Nimmer on Copyright - 13.05[D][2] (2007).

[4] For additional examples of what constitutes fair use, see AALL Fair Use Guidelines, at http://www.aallnet.org/about/policy_fair.asp.

[5] National Commission on New Technological Uses of Copyrighted Works (CONTU) (1976); the CONTU Guidelines are available online at <http://www.cni.org/docs/infopols/CONTU.html>

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