

COPYRIGHT PROCEDURES

The purpose of the copyright procedures is to provide guidelines for institutional adherence to the U.S. Copyright Act of 1976. The copyright law grants owners of copyright (authors and other creators and publishers) the exclusive right to reproduce all or part of the work, to distribute copies, to prepare new versions based on the original work, and to perform and display the work publicly.

Copyright protection covers both published and unpublished works from the moment of its creation throughout the lifetime of the author or originator, plus an additional 50 years. Registration with the Copyright Office is not required in order that a work be protected under U.S. copyright law, and the absence of a copyright notice does not mean that the work may be copied freely. Works in the public domain may be freely copied; however, collections and edited versions of works in the public domain may be protected by copyright. The fact that the author is deceased or that the book is out of print does not mean that the work may be copied.

Copyright exists in "original works of authorship" which are "fixed in a tangible medium of expression." The types of works which are subject to copyright protection include literary, dramatic, musical, choreographic, and pictorial works; graphic works and designs; pantomimes; sound recordings; sculptures; motion pictures; audiovisual works; lectures; maps; letters; and new technologies such as CD-ROM, CDs, and software. These types of work include reference works (including dictionaries), video cassettes, and computer programs and databases.

Monroe County Community College intends to adhere to the provisions of the copyright law and directs all employees to work within the confines of the law in all instances. The Director of Learning Resources will serve as the copyright officer of the institution and will oversee the implementation and adherence to the Copyright Policy and Procedures. License and permission agreements will be maintained in the Academic Dean/Director's Office of the employee's department. Questions concerning copyright should be directed to the Director of Learning Resources.

The copyright law does provide a fair use doctrine which permits, in limited situations, the use of a copyrighted work, including reproducing portions of that work, without the copyright owner's permission.

Four basic factors to be examined in determining whether a use constitutes a "fair use" under the copyright law are:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion of the work used in relation to the copyrighted work as a whole; and
4. The effect of the use in question upon the potential market for or value of the copyrighted work.

No one factor is determinative of a person's right to use a copyrighted work without permission. Educational use alone is not sufficient to make a use in question a fair one.

A 1976 House Report provides some additional guidelines that are helpful in determining if a use falls into the fair use category:

Single Copies

Under the "fair use" section of the Copyright Law Revision (1976), an instructor may make a single copy for research or classroom preparation of the following:

- a. A chapter from a book
- b. An article from a periodical or newspaper
- c. A short story, essay, or poem
- d. A chart, graph, diagram, drawing, cartoon, picture from a book, or periodical or newspaper

Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion, provided that:

- a. The copying meets the tests of brevity and spontaneity as defined below; and,
- b. Meets the cumulative effect test as defined below; and,
- c. Each copy includes a notice of copyright.

Definitions

Brevity:

1. Poetry: (a) A complete poem if fewer than 250 words and if printed on not more than two pages or (b) from a longer poem, an excerpt of not more than 250 words.
2. Prose: (a) Either a complete article, story or essay of fewer than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10 percent of the work, whichever is less, but in any event a minimum of 500 words.

(Each of the numerical limits stated in 1 and 2 above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)

3. Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
4. "Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph 1 above, notwithstanding such "special works," may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10 percent of the words found in the text thereof may be reproduced.

Spontaneity:

1. The copying is at the instigation and inspiration of the individual teacher; and
2. The inspiration and decision to use the work and the instance of its use for maximum teaching effectiveness are so close that there would not be enough time for a reply to a request for permission.

Cumulative Effect:

1. The copying of the material is for only one course in the school in which the copies are made.
2. Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
3. There shall not be more than nine instances of such multiple copying for one course during one class term.

(The limitations stated in 2 and 3 above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.)

Prohibitions

Notwithstanding any of the above, the following shall be prohibited:

1. Copying shall not be used to create or to replace or substitute for anthologies, compilations, or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated or are reproduced and used separately.
2. There shall be no copying of or from works intended to be "consumable" in the course of study or teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and similar consumable material.
3. Copying shall not:
 - a. substitute for the purchase of books, publisher's reprints or periodicals;
 - b. be directed by higher authority;
 - c. be repeated with respect to the same item by the same teacher from term to term.
4. No charge shall be made to the student beyond the actual cost of the photocopying.

Sheet & Recorded Music

The guidelines for printed material also cover the copying of copyrighted sheet and recorded music. Specific rules for sheet and recorded music are:

1. Emergency copies for an imminent performance, provided they are replacing purchased copies, and replacement is planned.
2. Multiple copies (one per student) of excerpts not constituting an entire performance unit or more than 10 percent of the total work made for academic purposes (other than performance).
3. Purchased sheet music may be edited or simplified, provided the character of the work is not distorted or lyrics added or altered.
4. A single copy of a recorded performance by students may be retained by the institution or instructor for evaluation or rehearsal purposes.

5. A single copy of recordings of copyrighted music owned by the institution for constructing exercises or examinations.

Fair use guidelines prohibit the following:

1. Copying to replace or substitute for anthologies or collections.
2. Copying from works intended to be "consumable."
3. Copying for purpose of performance, except for emergencies (as stated in #1 above).
4. Copying to substitute for purchase of music.
5. Copying without inclusion of copyright notice on the copy.

Audiovisual Works

With respect to the duplication of audiovisual works, the guidelines for printed material are still used, with the following clarifications:

Permitted:

1. Creating a slide or overhead transparency series from multiple sources as long as the creation does not exceed 10 percent of photographs in one source.
2. Creating a single overhead transparency from a single page of a "consumable" work.
3. Reproducing selected slides from a series, or excerpting sections of a film for a local videotape production, if the reproduction does not exceed 10 percent of the total or the "essence" of the work.
4. Stories or literary excerpts may be narrated on tape and duplicated, so long as similar material is not available for sale.

The following situations are prohibited under the fair-use guidelines:

1. Duplication of tapes, unless reproduction rights were given at time of purchase.
2. Reproduction of commercial "ditto masters," individually or in sets (including multimedia kits), if available for sale separately.
3. Reproduction of any AV work in its entirety.
4. Conversion of one media format to another without separate permission.

In-classroom use (performance) of a copyrighted film, slide program, videotape, etc., is permissible under the following conditions:

1. The performance must be by instructors (including guest lecturers) or by pupils; and
2. the performance is in connection with face-to-face teaching activities, and
3. the entire audience is involved in the teaching activity; and

4. the entire audience is in the same room or same general area; and
5. the teaching activities are conducted by a non-profit education institution; and
6. the performance takes place in a classroom or similar place used for instruction, such as a school library, gym, auditorium or workshop; and
7. the video tape is lawfully made.

Computer Software

Most computer software is licensed rather than sold. The clear plastic wrap "shrink-wrap" around the software usually contains the terms and conditions of the license. Although there are no cases concerning the validity of these arrangements, it is assumed that the contract is binding if the package has been opened. The fair use doctrine will not permit unauthorized copying of computer software because of the effect such copying would have on the market of the original work. Therefore, the following guidelines have been established by the American Library Association:

In-library and In-classroom Use

1. License restrictions, if any, should be observed.
2. If only one program is owned under license, ordinarily it may be used only on one machine at a time.
3. Most licenses do not permit a single program to be loaded into a computer which can be accessed by several different terminals or into several computers for simultaneous use.
4. If the machine is capable of being used by a patron to make a copy of a program, a warning should be posted on the machine.

Archival Copies

1. Libraries may lawfully make one archival copy of a copyright program under the following conditions:
 - a) one copy is made;
 - b) the archival copy is stored;
 - c) if possession of the original ceases to be lawful, the archival copy must be destroyed or transferred, along with the original program;
 - d) copyright notice should appear on the copy.
2. The original may be kept for archival purposes and the "archival copy" circulated. Only one copy - either the original or the archival - may be used or circulated at any given time.
3. If the circulating copy is destroyed, another "archival" copy may be made.
4. If the circulating copy is stolen, the copyright owner should be consulted before circulating or using the "archival" copy.

Notice of Copyright

The following procedures will be followed to ensure adherence to the copyright law:

A written statement of copyright information, including the author's name, journal of publication from which the excerpt was made, and date of copyright, must appear on all copies made.

Self-Service Machines

The following notice will be posted at all self-service copy machines by the press operator:

COPYRIGHT WARNING NOTICE - The Copyright Law of the United States (Title 17, U.S. Code) governs the making of photocopies of copyrighted materials. The person using the equipment is liable for any infringement.

Press Room Duplicating

The Monroe County Community College Press Room will strictly adhere to the copyright law. The 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. The following notice will be posted in the press room:

COPYRIGHT WARNING NOTICE - The Copyright Law of the United States (Title 17, U.S. Code) governs the making of photocopies or other reproductions of copyrighted material. Photocopies or other reproductions can be furnished only under certain conditions, if they will be used solely for private study, scholarship, or research. Use of the reproduction for other purposes may make the user 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.

The duplicating request form will include the following statement:

In submitting this copy request, I have complied with the Copyright Law of the United States (Title 17, U.S. Code) and have submitted proper authorization, if warranted, to the Academic Dean/Director in my department.

Please check one:

I have submitted a letter of permission to the Academic Dean/Director in my department.

The use of this piece falls within the Fair Use Guidelines.

Signature

Computer Software

Unauthorized copying of software is illegal. All college-owned computers will be run with legal software only. Copies of the licensing agreements, as well as the original software disks, will be housed in the office of the Microcomputer Technician unless a waiver is signed by the user/Academic Dean to hold the licensing agreement and software disks in his or her office. By signing this waiver, the user/Academic Dean will be guaranteeing that the software will be used in compliance with U.S. Copyright Laws. The waiver forms will be held by the Microcomputer Technician and a log of all College-owned software will be maintained by this office. All College-owned software will be registered to Monroe County Community College. The contact person may be listed as the "employee user." Notice of copyright warnings will be placed on all computers used by students or members of the general public.

Procedures for Obtaining Permission to Copy

It will be the responsibility of the individual planning to use copyrighted material(s) to obtain written permission for such use. Proof of permission to duplicate must be furnished to the Academic Dean/Director of the individual's department prior to the time a duplication request is sent to the press room.

In obtaining permission, the following steps are recommended:

1. The owner of the copyrighted material(s) should be determined. The page containing the copyright notice shows who owns the copyright, the year of publication, and the publisher's name.
2. A letter containing the following information should be written to the copyright owner:
 - a. Author's, editor's, translator's full name(s)
 - b. Title, edition and volume number of book or journal
 - c. Copyright date
 - d. Numbers of the exact pages, chapters, figures, and illustrations; if possible, a photocopy of the material (if requesting a chapter or more: both exact chapter(s) and exact pages)
 - e. Number of copies to be made (include whether the material(s) will be sold)
 - f. Whether material will be used alone or combined with other photocopied materials
 - g. Name of college
 - h. Course name and number
 - i. Semester and year in which material will be used (usually releases are valid only for the semester they were sought)
 - j. Instructor's full name
 - k. Complete address and phone number of the person making the request.
3. The request should be sent with a self-addressed envelope to the permission department of the publisher owning the copyright. The request should be sent as soon as possible to assist in securing permission prior to the start of classes.

Cross-References

Policy 6.43

Copyright Policy

2-28-94, 11-22-99, 3-27-06