

Pennsylvania College of Technology

Procedure Statement

Title: Copyright Procedure

Number: PR7.17

Approved by:
Presidential Action

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Persons/Departments Affected:
All employees and students

Responsible Department:
Information Technology Services, Madigan Library

Definitions:

Copyright: A form of protection provided by the 1976 Copyright Act of the United States for original works of authorship. "Copyright" literally means the right to copy, but has come to mean that body of exclusive rights granted by law to copyright owners for protection of their work. Copyright protection does not extend to any idea, procedure, process, system, title, principle, or discovery. Similarly, names, titles, short phrases, slogans, familiar symbols, mere variations of typographic ornamentation, lettering, coloring, and listings of contents or ingredients are not subject to copyright. Source: United States Copyright Office Definitions at <https://www.copyright.gov/help/faq/definitions.html>.

Original Works: Copyright provides the exclusive legal right to publish, reproduce, and distribute an original work. Original works are protected as soon as they exist in some medium of expression that is fixed in a format that can be reproduced, perceived, or communicated in some manner. Federal copyright law prohibits the reproduction, distribution, and performance of protected materials without express permission of the copyright holder. Original works protected by copyright law include the following:

- Literary works, including software
- Musical works, including lyrics
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Sound recordings
- Architectural works

The categories of protected works encompass media and concepts beyond the obvious. For example, digital paintings or illustrations are protected as pictorial or

graphic work, and computer programs are protected as literary works. A work need not be identified as “copyright” to be protected under the law.

Fair Use: Fair use is a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. [Section 107 of the Copyright Act](#) provides the statutory framework for determining whether something is a fair use. Section 107 calls for consideration of the following four factors in evaluating a question of fair use: 1. purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes, 2. nature of the copyrighted work, 3. amount and substantiality of the portion used in relation to the copyright work, and 4. effect of the use upon the potential market for or value of the copyrighted work. In addition to the preceding, other factors may also be considered by a court weighing a fair use question, depending on the circumstances. Courts evaluate fair use claims on a case-by-case basis, and the outcome of any given case depends on a fact-specific inquiry. This means that there is no formula to ensure that a predetermined percentage or amount of a work – or a specific number of words, lines, pages, copies – may be used without permission.

Copyright Notice: The copyright notice consists of three elements. They are the "c" in a circle (©), the year of first publication, and the name of the owner of copyright. A copyright notice is no longer legally required to secure copyright on works first published on or after March 1, 1989, but it does provide legal benefits. Source: U.S. Copyright Office Definitions at <https://www.copyright.gov/help/faq/definitions.html>

Procedure:

I. Responsibility for Compliance

- A. All College departments, schools, and individuals must comply with all copyright laws contained in Title 17 of the United States Code. Users of copyrighted materials are responsible for seeking permission from the appropriate copyright holder(s), properly understanding and relying on ‘fair use’ under the fair use doctrine, or complying with the Digital Millennium Copyright Act of 1998 (pertaining to electronic forms of original works) prior to using any copyrighted materials.
- B. Each department, school, or individual must adhere to copyright law and monitor copyright compliance in their respective areas. Disputes in matters of interpretation are to be referred to the appropriate area vice president or the College’s Copyright Committee.

II. Use of Original Works Displaying No Copyright Notice

- A. Many works may not have a copyright notice. These works are still protected by copyright law, and use of these works must fall within the exceptions outlined in the law, or permission must be obtained before using the work.

III. Obtaining Permission

- A. To obtain permission to use copyrighted materials for research or instruction, individuals must send requests to the publisher's copyrights or permissions department (for books or magazines) or directly to the author, composer, or artist. Also, permission received to duplicate something once does not mean permission is granted in perpetuity – unless that is stipulated in the initial permission granted.

- B. Information to be included is as follows:

- Name of author/editor, edition/volume, and copyright date of the work
- A link to the material, if available
- ISBN or ISSN (books and magazines)
- Page numbers, chapter numbers, etc. of the work to be copied
- Rationale and specifics of the request, including the number and format of the copies (i.e., printed copy of electronic document), the form of distribution, and the semester when they will be distributed
- College, course (title and number), and instructor
- Full name, address, phone, and e-mail address of the person the copyright holder can contact with questions

- C. The Library can request permission for instructional use. If permission is granted, and the charge is reasonable, the Library may pay copyright permission fees.

IV. Use of Copyrighted Works Based on Statutory Fair Use Doctrine in Section 107

- A. Copyright law does provide for “fair use” by allowing limited portions of protected works to be used without permission for criticism, commentary, news reporting, scholarly research, and teaching. Although the rules for determining what qualifies as fair use are not clear-cut, Section 107 of Title 17 of the United States Code sets forth the following factors:

1. The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes
2. The nature of the copyrighted work
3. Amount and substantiality of the portion used in relation to the copyrighted work as a whole

4. The effect of the use upon the potential market for or value of the copyrighted work
- B. Because these factors are not quantifiable and cannot be categorically applied, they can only be used as broad guidelines. Many educational uses will be fair; however, nonprofit educational use alone does not automatically provide permission to copy and distribute other people's work. Individuals should evaluate their use each time copyrighted material is reproduced in any format whether to show in class, to hand out copies, or to post on the College's learning management system.
- C. Making copies of works in an accessible format for persons with disabilities is considered fair use.

V. Use of Copyrighted Works Based on Fair Use Guidelines or Section 110 Exemptions for Performances and Displays

The "Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions (With Respect to Books and Periodicals)" and "Guidelines for Educational Uses of Music" located in the annotation of 17 U.S.C.A. § 107 do not set the maximum amount to be used. However, the courts have looked to these guidelines as a point of reference in reviewing fair use cases.

- A. Supplementary Course Materials (periodicals and chapters from books):
 1. Based on the Guidelines for Classroom Copying, an instructor can make a single copy (with proper attribution) of a chapter in a book, article in a periodical, short story, short poem, chart, graph, photograph, or cartoon for educational purposes. An instructor is more limited when making multiple copies to distribute in class; note the copying must be at the instructor's decision and with such short notice that it is not reasonable to obtain permission in a timely manner, and each copy must include a notice of copyright.
 2. Generally accepted guidelines for multiple copying include:
 - a. Complete poems or poem excerpts of less than 250 words
 - b. Complete articles, stories, essays of less than 2500 words
 - c. Excerpts from prose not to exceed the lesser of 1000 words or 10% of the work
 - d. One chart, graph, diagram, cartoon, or picture per book or periodical issue
 3. Acknowledging the source and author of a published work is not a substitute for obtaining the copyright holder's permission.

4. There should not be excessive instances of multiple copying for one course during one class term or repeated copying term to term. (Nine instances of copying in one term for one course is stated in the guidelines.)

B. Primary Course Materials (Course Packets):

1. Course packets may not be used as a substitute for the purchase of books, including anthologies, compilations, or collective works. If a work is out of print and cannot be obtained by the College Store, written permission of the copyright holder is required before the material can be included in course packets. Likewise, course packets may not include materials intended and sold for educational use such as workbooks, exercises, standardized tests, test booklets, answer sheets, etc.

C. Music

1. Based on the Guidelines for Educational Uses of Music, for academic purposes other than performance, one copy per student of excerpts of works may be made, provided the excerpts do not comprise a part of the whole that would constitute a performable unit such as a section, movement, or aria.
2. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual instructor.
3. It is prohibited to make copies for the purpose of performance or for the purpose of substituting for the purchase of music.

D. Film and Video

1. Section 110(1) of Title 17 of the United States Code allows audio-visual works to be displayed in a face-to-face classroom setting if they are legitimate copies (with copyright information) and if shown:
 - a. As part of an instructional program
 - b. By students, teachers, guest lecturers
 - c. In the classroom or other College location
2. Larger audiences require explicit permission from the copyright holder for “public performance” rights. Attendees cannot be charged admission fees to view the performance.

3. Section 110(2) of Title 17 allows reasonable and limited portions of nondramatic literary or musical works to be displayed in a digital transmission if:
 - a. It is at the direction of the instructor and is an integral part of the session
 - b. The portion used is directly related and essential to the teaching content
 - c. As much as technologically feasible, the transmission is restricted to students enrolled in the class
 - d. It is not a work produced and marketed specifically for mediated instruction transmitted via digital networks
4. Additional information regarding fair use guidelines covering areas such as printed materials, broadcast recordings, distance learning transmissions, digital images, and multimedia formats is available by contacting the College's Copyright Committee.

E. Software

1. Software, whether purchased with an individual license, included under an educational site license, or downloaded from the Internet, is protected under copyright laws as "literary works." Penn College respects and adheres to all computer software copyrights and complies with all terms of all software licenses purchased from third-party vendors.
2. The College prohibits employees and students from duplicating any College-owned software or related documentation. Likewise, copyrighted software is not to be placed on any computer that can be publicly accessed through the Internet without prior permission from the copyright holder or as granted in a license agreement. College-owned software cannot be installed on an employee's home computer unless otherwise stated in the license agreement.
3. All software must be purchased through Information Technology Services. If software is acquired through any other means (i.e., gift or donation) by a department, that department must supply ITS with the necessary licensing information for tracking purposes.
4. Due to personnel turnover, software should never be registered in the name of the individual user. ITS will register and manage all software licenses. Consult with the College's Information Technology Services department for clarification of specific license provisions.
5. Pennsylvania College of Technology reserves the right to inspect any computer system connected to the College network for software licensing violations and to take any steps necessary to ensure compliance with College policy and federal, state, and local law.

VI. Digital Millennium Copyright Act and Peer-to-Peer File Sharing

- A. The Digital Millennium Copyright Act (DMCA) of 1998 addresses copyright liability as it pertains to electronic forms of original works. This act stipulates that unauthorized electronic copying, displaying, and/or distributing of protected software, text, images, audio, and video is a violation of copyright law.
- B. Peer-to-peer (P2P) networks can be used to share and exchange music, movies, software, and other electronic materials. The use of P2P networks to upload, download, or share copyrighted materials may violate the rights of copyright owners. Any individuals should use extreme caution when using P2P software and to read all user agreements carefully beforehand.
- C. Additional policy relating to electronic forms of communication is indicated in the Information Technology Resources Acceptable Use Policy ([P7.05](#)).

VII. Implications of Infringement

- A. Civil and criminal penalties may be imposed for copyright infringement. These may include monetary damages (actual and statutory), attorney's fees, injunctive relief, and impounding and destruction of copies. In addition, infringement is a violation of College policy and may result in appropriate disciplinary action, which may include loss of computing privileges, suspension, termination, or expulsion from the College.

VIII. Copyright Resources

- A. U. S. Copyright Office, <http://www.copyright.gov>
- B. Fair Use, Historical and Statutory Notes, 17 U.S.C.A. § 107
- C. Recording Industry Association of America, <http://www.riaa.com>
- D. The Copyright Committee, accessible from the Madigan Library Department portal site.
- E. Copyright & Fair Use: General guidelines compiled for Penn College faculty and staff (available online through the Copyright Committee, <https://pct.libguides.com/copyright>)

Revision History:

- Date: 10/2023 Updated to reflect committee name change from Copyright and Fair Use Advisory Group (CFUAG) to Copyright Committee
- Date: 11/2021 Updated fair use definition, and language on implementation.
- Date: 04/2016 Added responsible departments; updated definitions; reorganized and revised for clarity, including expansion of section on "Guidelines"; updated resources and cross references.
- Date: 07/2010 Change of language in Section I, Copyright Definition

Date: 03/2010 Change of responsible party from Mail and Document Services to Copyright and Fair Use Advisory Group. Updated copyright resources.

Cross References:

Copyright Policy, [P7.17](#)

Publicity & Promotion Policy, [P7.04](#)

Information Technology Resources Acceptable Use Policy, [P7.05](#)

Copying, Duplicating, and Printing Policy, [P7.06](#)

¹Sections of this policy were adapted, with permission of Simmons College, from the Simmons College Copyright Policy (available May 2004: <http://my.simmons.edu/serv>)