

## Introduction

It is the intent of the College that all college members adhere to the provisions of the United States Copyright Law (Title 17, United States Code, Sect. 101, et seq.), and this policy. The following statements and guidelines apply to anyone at the College who wishes to reproduce, alter, or perform works that are protected by copyright. Since copyright protection applies to a variety of creative works printed materials, sound recordings, video recordings, visual artworks, computer software, and others this policy has been constructed to address issues related to the use of particular types of media.

Full text of the law and its legislative history, plus subsequent analysis and commentary, are available in the Library. Librarians may be able to advise and assist in researching problems not specifically addressed in this policy.

Members of the College community who willfully disregard the copyright policy do so at their own risk and assume all liability.

### I. What is Copyright?

#### A. Definition

Copyright is a form of legal protection for authors of original works, including literary, dramatic, musical, artistic, and other intellectual products. Publication is not essential for copyright protection, nor is the encircled "c" symbol. Section 106 of the Copyright Act (90 Stat 2541) provides the owner of copyright the exclusive right to do and to authorize any of the following: 1) Reproduce copies of the work. 2) Prepare derivative works based on the copyrighted work. 3) Distribute copies of the work by sale, rental, lease, or lending. 4) Publicly perform the work (if it is a literary, musical, dramatic, or choreographic work or a pantomime, motion picture or audiovisual work). 5) Publicly display the work (if it is a literary, musical, dramatic, choreographic, sculptural, graphic, or pictorial work including the individual images of a film or a pantomime). The copyright owners retain these rights even when the work itself belongs to someone else. However, the rights are not absolute. They are subject to both "Fair Use" limitations, which apply to all media, and medium specific limitations.

#### B. Fair Use

The doctrine of fair use, denoted in section 107 of the Copyright Act of 1976, addresses the needs of scholars and students by mitigating the rights of copyright ownership. However, what constitutes fair use is expressed in the form of guidelines rather than explicit rules. To determine fair use, the following four factors need to be considered [from The Copyright Primer for Librarians and Educators, by Janis H. Bruwelheide; Chicago, ALA, 1995]:

1. The purpose and character of the use, including whether the copied material will be for nonprofit, educational, or commercial use. This factor at first seems reassuring; but unfortunately for educators, several courts have held that absence of financial gain is insufficient for a finding of fair use.
2. The nature of the copyrighted work, with special consideration given to the distinction between a creative work and an informational work. For example:
  - a. Photocopies made of a newspaper or newsmagazine column are more likely to be considered a fair use than copies made of a musical score or a short story.

- b. Duplication of material originally developed for classroom consumption is less likely to be fair use than is the duplication of materials prepared for public consumption. For example:

A teacher who photocopies a workbook page or a textbook chapter is depriving the copyright owner of profits more directly than if copying one page from the daily paper.

- 3. The amount, substantiality, or portion used in relation to the copyrighted work as a whole. This factor requires consideration of:
  - a. the proportion of the larger work that is copied and used, and
  - b. the significance of the copied portion.
- 4. The effect of the use on the potential market of the copyrighted work. This factor is regarded as the most critical one in determining fair use; and it serves as the basic principle from which the other three factors are derived and to which they are related:

If the reproduction of a copyrighted work reduces the potential market and sales and, therefore, the potential profits of the copyright owner, that use is unlikely to be found a fair use.

### C. Permission For Copying In Excess Of Fair Use

All employees, including faculty, must obtain written permission from the copyright owner to copy a large portion of a work or an entire work, or to produce multiple copies of chapters or periodical articles in excess of fair use.

## II. Printed Materials - Works That May Be Used Freely

Occasionally, scholarly publications such as journal articles include a note offering the right to copy for educational purposes. Some categories of publications are in the [public domain](#); that is, their use is not protected by copyright law:

- A. Works published before 1923.
- B. Works that do not include a copyright notice and were first published before January 1, 1978.
- C. Most United States government documents.

Once a work has acquired public domain status it is no longer eligible for copyright protection. Before assuming that a work is in the public domain, research its status.

## III. Photocopy

### A. Printed Materials Other Than Music: What Quantity Conforms to the Law?

The agreement on Guidelines for classroom copying below, though widely considered to be too restrictive for academic needs, does define the limits within which we can be sure of complying with copyright law. Somewhat more extensive copying may be sanctioned by the fair use guidelines.

#### Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with Respect to Books and Periodicals

The purpose of the following guidelines is to state the minimum and not the maximum standards of educational fair use under Section 107 of H.R. 2223. The parties agree that the conditions determining the extent of permissible copying for educational purposes may change in the future; and conversely that in the future other types of copying not permitted under these guidelines may be permissible under revised guidelines. Moreover, the following statement of guidelines is not intended to limit the types of copying permitted under the standards of fair use under judicial decision and which are stated in Section 107 of the Copyright Revision Bill. There may be instances in which copying which does not fall within the guidelines stated below may nonetheless be permitted under the criteria of fair use.

### 1. Single Copies for Scholarly Needs

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

- a. A chapter of a book.
- b. An article from a newspaper or periodical.
- c. A short story, short essay, or short poem, whether or not from a collective work.
- d. A chart, diagram, drawing, graph, cartoon, or picture from a book, periodical or newspaper.

### 2. 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.

### 3. Definitions:

#### a. Brevity

- (1) Prose: Either (a) a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event an excerpt of up to 500 words.
- (2) Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages, or (b) an excerpt of not more than 250 words. (Each of the numerical limits above may be expanded to permit the completion of an unfinished prose or line of a poem).
- (3) Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or periodical issue.
- (4) Special Works: Certain works in poetry or prose or in "poetic prose", which may combine language with illustrations and which fall short of 2,500 words, may not be reproduced in their entirety. However, an excerpt comprising not more than two of the published pages of such a work, and containing not more than 10% of the words found in the text, may be reproduced.

#### b. Spontaneity

- (1) The copying is at the instance and inspiration of the individual instructor.
- (2) The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

#### c. Cumulative Effect

- (1) The copying of the material is for only one course, at Pellissippi State, with no more than one copy per student in the course.
- (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 a term.

- (3) There shall not be more than nine instances of such multiple copying for one course during a term.

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

- (4) Prohibitions as to 1 and 2 Above

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

- a. 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 there from are accumulated or reproduced and used separately.
- b. There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable materials.

Copying shall not:

- (a) substitute for the purchase of books, publishers' 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.
- c. No charge shall be made to the student beyond the actual cost of the photocopying.

#### B. Course Packets

Copyright litigation involving academic users has focused on those "anthologies", which are perceived as substituting for textbooks and thus as reducing the potential market for copyrighted publications. Every article or chapter in a course packet, if derived from copyrighted material, requires permission, either from the copyright owner (usually the publisher) or through a royalty fee paid to the Copyright Clearance Center. Each item in the packet also must include a notice of copyright e.g., "Copyright 1990 by Academic Books, Inc." Individuals who purchase course packets should not be charged in excess of production cost and any royalty fees. Call Library Services for information on seeking permission or help in finding publishers' addresses. Expect several weeks delay in cases where copyright owners are elusive.

#### C. Music for Educational Purposes

The following segment, which is an official part of the Copyright Act's legislative history, defines guidelines within which we can be sure of copying within copyright law when copying music. Somewhat more extensive copying may be sanctioned by the fair use provisions of the law.

The purpose of the following guidelines is to state the minimum and not the maximum standards of educational fair use under 107 of H.R. 2223 is below:

The parties agree that the conditions determining the extent of permissible copying for educational purposes may change in the future; that certain types of copying permitted under these guidelines may be permissible in the future, and conversely that in the future other types of copying not permitted under these guidelines may be permissible under revised guidelines.

Moreover, this statement is not intended to limit the types of copying permitted under the standards of fair use under judicial decision and which are stated in '107 of the Copyright Revision Bill. There may be instances in which copying which does not fall within the guidelines stated below may nonetheless be permitted under the criteria of fair use.

1. Permissible Uses

- a. Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.
  - (1) For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not compromise a part of the whole which would constitute a performable unit such as a section, movement or aria, but in no case more than 10 percent of the whole work. The number of copies shall not exceed one copy per pupil.
  - (2) For academic purposes other than performance, a single copy of an entire performable unit (section, movement, aria, etc.) that is, (1) confirmed by the copyright proprietor to be out-of-print or (2) unavailable except in a larger work, may be made by or for a teacher solely for the purpose of his or her scholarly research or in preparation to teach a class.
- b. Printed copies which have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, altered or lyrics added if none exist.
- c. 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 teacher.
- d. A single copy of a sound recording (such as a tape, disc or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.)

2. Prohibitions

- a. Copying to create or replace or substitute for anthologies, compilations or collective works.
- b. Copying of or from works intended to be "consumable" in the course of study or of teaching such as workbooks, exercises, standardized tests and answer sheets and like material.
- c. Copying for the purpose of performance, except as in A(1) above.
- d. Copying for the purpose of substituting for the purchase of music, except as in A(1) and A(2) above.
- e. Copying without inclusion of the copyright notice which appears on the printed copy.

D. Packets of Photocopied Music Excerpts See section B above, "Course Packets."

#### E. Photocopies Obtained Through Interlibrary Loan

Section 108(d) of the Copyright Law of 1976 specifies that a library may copy "no more than one article or other contribution to a copyrighted collection or periodical issue, or . . . a small part of any other copyrighted work." The copy must become the property of the requestor, and its use is limited to "private study, scholarship, or research."

Interlibrary Loan activities are further restricted in the aggregate by the Commission on New Technological Uses of Copyrighted Works (CONTU) Guidelines", which cap the amount of photocopying the Interlibrary Loan office can request for the College community in any calendar year without paying royalties. The thrust of the "Guidelines" is to quantify the maximum number of photocopied articles that can be requested from the most recent five years of a periodical to which the library does not subscribe. Individuals requesting copies in excess of the CONTU allowance may be asked to pay a royalty or the fee necessary to obtain such copies commercially.

#### F. Notice - Warning Concerning Copyright Restrictions

1. The Library is legally obligated to display prominently the following notice and to include the same text on all Interlibrary Loan request forms:

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions 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. The College reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

2. Photocopy Machines

Every photocopy machine on campus must include effective signage incorporating the following text:

Notice: 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.

When so posted, the law (Section 108(f) (1)) gives libraries and archives protection from liability from contributory infringement when patrons use reproducing equipment provided by the library or archive. Though aimed primarily at photocopiers, the law is broad enough to include other types of equipment including computers and audio-visual equipment which is available for unsupervised use. Notices should be displayed on all such equipment.

#### IV. Library Reserve

At the request of a faculty or staff member, the library may place on reserve photocopied excerpts from copyrighted works in its collection in accordance with guidelines governing formal classroom distribution for face-to-face teaching discussed above. The College believes that these guidelines apply to the library reserve shelf to the extent that it functions as an extension of the classroom or reflects an individual student's right to photocopy for personal scholastic use under the doctrine of fair use. In general, librarians may keep photocopies of copyrighted materials on reserve for the convenience of students both in preparing class assignments and in pursuing informal educational activities that higher education requires, such as advanced independent study and research.

If the request calls for only one copy of an item to be placed on reserve, the library may place on reserve an entire article, or an entire chapter from a book, or an entire poem. Requests for multiple copies on reserve should meet the following guidelines:

1. The amount of material should be reasonable in relation to the total amount of material assigned for one term of a course taking into account the nature of the course, its subject matter and level (17 U.S. C. 107(1) and (3)).
2. The number of copies should be reasonable in light of the number of students enrolled, the difficulty and timing of assignments, and the number of other courses that may assign the same material (17 U.S.C. 107 (1) and (3)).
3. The material should contain a notice of copyright (see 17 U.S.C. 401).
4. The effect of photocopying the material should not be detrimental to the market for the work. (In general, the library or the instructor should own a copy of the work.) (17 U.S.C. 107 (4)).

A. How many photocopies of an item may be placed on reserve?

Library Services routinely accepts single photocopies of copyright protected chapters, articles, etc. The photocopies are considered to be the instructor's property. Although copyright law prohibits libraries from systematic copying to enhance their collections, an instructor may provide duplicate photocopies (five at most) when a course is large enough to require more than one copy of an assigned photocopy. If an original is not owned by the Library or the instructor, the instructor must provide written permission or indication of royalty payment for photocopies in excess of one.

B. How many photocopied items are permitted on reserve for a course?

1. Items from one source. The amount of material should be reasonable in relation to the size of the source. Ordinarily, two chapters from a book or two articles from a periodical would be considered reasonable. Greater proportions of copyright protected sources will be accepted for reserve only with written permission from the copyright owner or indication of royalty payment.
2. Items from multiple sources. There are several relevant considerations, including the four factors which determine fair use; the Guidelines for Classroom Copying In Not-For-Profit Educational Institutions (see section III of this policy); and recent judicial history. A reasonable number will, in most instances, be less than six, but factors such as the length or difficulty of the assignment, the number of enrolled students, and the length of time allowed for completion of the assignment may permit more in unusual circumstances. Still, the quantitative threshold for exceeding fair use is problematic. However, current opinion on academic applications of the copyright law is consistent in regard to course packets derived from copyright protected materials as outside the bounds of fair use. Consequently, course packets will not be accepted for library reserve without indication of the necessary permission or royalty payment.

C. Notice and Citation

Copies on Reserve must be marked with the following:

NOTICE: This material may be protected by copyright law (Title 17 U.S. Code).

Copies on reserve must also include a complete citation for the source.

D. Music Reserves

Special restrictions apply to music reserves. (See section III on photocopying music).

V. Unpublished Works

Manuscripts, letters and other unpublished materials are likely to be protected by copyright regardless of age, even if they lack a notice of copyright. Consult a Librarian for assistance. Copies may usually be made for individual researchers under the law's Fair Use provisions.

## VI. Audiovisual Materials

### A. Films and Video

#### 1. Classroom Use

Possession of a film or video does not confer the right to show the work. The copyright owner specifies, at the time of purchase or rental, the circumstances in which a film or video may be "performed." Use of these media is permitted in an educational institution so long as certain conditions are met.

Section 110 (1) of the Copyright Act of 1976 specifies the following conditions: Performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a non-profit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images is given by means of a copy that was not lawfully made...and that the person responsible for the performance knew or had reason to believe was not lawfully made.

Additional text of the Copyright Act and portions of the House Report (941476) combine to provide the following, more detailed list of conditions [from Virginia M. Helms, supra]:

- a. They must be shown as part of the instructional program.
- b. They must be shown by students, instructors, or guest lecturers.
- c. They must be shown either in a classroom or other school location devoted to instruction such as a studio, workshop, library, gymnasium, or auditorium if it is used for instruction.
- d. They must be shown either in a face-to-face setting or where students and teacher(s) are in the same building or general area.
- e. They must be shown only to students and educators.
- f. They must be shown using a legitimate (that is, not illegally reproduced) copy with the copyright notice included.

Further, the relationship between the film or video and the course must be explicit. Films or videos, even in a "face-to-face" classroom setting, may not be used for entertainment or recreation, whatever the work's intellectual content.

#### 2. Use Outside the Classroom

Besides use in classrooms, videocassettes and videodiscs that are owned by the College may ordinarily be viewed by students, faculty or staff at workstations or in small group rooms such as those available in the Educational Technology Center. Larger audiences require explicit permission from the copyright owner for "public performance" rights. No fees for viewing a video are permitted even when public performance rights are obtained.

#### 3. Copying Videotapes/Off-Air Recording of Broadcasts, Including Satellite TV

Copying videotapes without the copyright owner's permission is illegal. An exception is made for libraries to replace a work that is lost or damaged if another copy cannot be obtained at a fair price [Section 108 of the Copyright Act of 1976].

Licenses may be obtained for copying and off-air recording. Absent a formal agreement, "Guidelines for Off-the-Air Recording of Broadcast Programming for Educational Purposes," an official part of the Copyright Act's legislative history, applies to most off-air recording by nonprofit educational institutions [from Virginia M. Helms, supra]:

- a. Videotaped recordings may be kept for no more than 45 calendar days after the recording date, at which time the tapes must be erased.
- b. Videotaped recordings may be shown to students only within the first 10 school days of the 45-day retention period.

- c. Off-air recordings must be made only at the request of an individual instructor for instructional purposes, not by staff in anticipation of later requests.
- d. The recordings are to be shown to students no more than two times during the 10-day period, and the second time only for necessary instructional reinforcement.
- e. The taped recordings may be viewed after the 10-day period only by instructors for evaluation purposes, that is, to determine whether to include the broadcast program in the curriculum in the future.
- f. If several instructors request videotaping of the same program, duplicate copies are permitted to meet the need; all copies are subject to the same restrictions as the original recording.
- g. The off-air recordings may not be physically or electronically altered or combined with others to form anthologies, but they need not necessarily be used or shown in their entirety.
- h. All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.
- i. These guidelines apply only to nonprofit educational institutions, which are further expected to establish appropriate control procedures to maintain the integrity of these guidelines.

Certain public broadcasting services (Public Broadcasting Service, Public Television Library, Great Plains National Instructional Television Library, and Agency for Instructional Television) impose similar restrictions but limit use to only the seven-day period following local broadcast [Virginia M. Helms, *supra*].

#### 4. Network Distribution of Video

The College negotiates for closed circuit distribution rights, if possible, when purchasing access to satellite broadcasts or obtaining works on videotape. Without explicit permission for closed circuit distribution, network transmission of a video is not permissible unless "Classroom Use" guidelines are met. (See Number I above, Classroom Use)

### B. Sound Recordings

#### 1. Non-Music Recordings

Cassettes or disks may not be copied unless replacement recordings from a commercial source cannot be obtained at a fair price. Recording brief excerpts is considered fair use, however.

#### 2. Music Recordings

A single copy may be made for the purpose of constructing aural exercises or examinations. Otherwise, the restrictions on copying non-music recordings apply.

### C. Slides and Photographs

#### 1. Reproduction

Whenever possible, the college will either purchase slides and photographs from authorized sources or will borrow from institutions which offer licensing for single copy reproduction. In either case, further copying would be prohibited.

Occasionally, slides of copyrighted images that are needed for classroom purposes cannot be obtained readymade in a timely fashion. If the process of slidemaking would fail to meet Fair Use requirements, the requestor must demonstrate that the copyright owner has granted permission.

## 2. Display

Copyright ownership of slides and photographs encompasses control over display as well as reproduction. However, Section 110 of the Copyright Act of 1976 addresses the display of copyrighted slides and photographs in educational settings by allowing "display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction" so long as the copy of the artwork was lawfully made. Furthermore, the purpose of the display must be integral to the course.

## VII. Educational Multimedia Fair Use

This section of the policy summarizes key elements of the Educational Multimedia Fair Use Guidelines (1996). These guidelines were developed due to the efforts of the Consortium of Colleges and Universities Media Centers (CCUMC) which convened a group of interested parties to develop guidelines to assist educators, scholars, and students in determining fair use when including portions of copyrighted works in multimedia programs. This group became a part of the Conference on Fair Use (CONFU) which met for two (2) years attempting to negotiate guidelines for educational uses of digital works. These guidelines do not represent a legal document and are not legally binding. They do represent an agreed-upon interpretation of the fair use provisions of the Copyright Act by the institutions and organizations which endorsed them. While only the courts can decide if a particular use of copyrighted materials falls within the fair use provisions, the guidelines are an attempt to give educators and students some quantitative guidance in using copyrighted works in their multimedia projects. The Guidelines specify how much of copyright-protected sources may be included in multimedia products prepared by students or faculty members for course-related work. Use of larger portions requires permission from copyright owners. Educators may use their Multimedia production containing copyrighted material for teaching purposes for up to two years after the first instruction with a class. Use in the classroom beyond two years requires obtaining permission for each copyrighted portion. If an educator wants to commercially reproduce or distribute the work, copyright permission must be obtained for all copyrighted material included. Creators of multimedia products may prepare no more than three copies -- one copy for use, one for library reserve, and one for preservation and replacement purposes only. An exception is allowed for joint projects: each principal creator may retain a copy.

### A. Portion Limitations by Media Type

#### 1. Motion Media

Up to 10% or 3 minutes of a single source, whichever is less.

#### 2. Text

Up to 10% or 1000 words of a source, whichever is less. An entire poem of less than 250 words, but no more than 3 poems or excerpts by one poet. No more than 5 poems or excerpts from one anthology.

#### 3. Music, Lyrics, Music Video

Up to 10% but not more than 30 seconds total from an individual work.

#### 4. Illustrations, Photographs

No more than 5 images by one artist or photographer. No more than 10% or 15 images, whichever is less, from any single published work.

#### 5. Numerical Data Sets

Up to 10% or 2500 fields or cell entries, whichever is less.

#### 6. Internet Sources

Though it can be difficult to determine what is copyright-protected and what is in the public domain, the multimedia creator is responsible for adhering to copyright law.

## B. Notice - Opening Screen

The following notice must be displayed on the opening screen and on any accompanying print material:

"Certain materials are included under the fair use exemption of U.S. Copyright Law and have been prepared according to the educational multimedia fair use guidelines and are restricted from further use."

Sources must be credited and the copyright notice and ownership information display if shown in the original source. Crediting the source must adequately identify the source of the work, giving a full bibliographic description where available (including author, title, publisher, and place and date of publication). The copyright notice includes the word "Copyright" or the copyright symbol, the name of the copyright holder, and the year of first publication.

## C. Integrity of Sources

Any alterations of copyrighted items must be noted.

## VIII. Computer Software and Information Technology

Keep in mind that any information or work accessible using information technology has the same copyright protection as a work in a traditional print format. So the content of a commercial database, text and images found on the Internet, web pages, and even e-mail messages are potentially copyrighted works which should not be used without the permission of the copyright holder or used only within the guideline of fair use or any negotiated licensing agreement.

The College negotiates site licenses with software vendors whenever possible for software products that are selected for extensive use. These arrangements provide the College community with efficient access to computer programs that support the curriculum, while assuring the copyright owner a fair royalty.

Software products that are not licensed to the College may also be used. However, copying is strictly limited except for backup purposes. Whether the software is transferred from the original to a hard disk or to an archival diskette, the backup copy is not to be used as long as the other copy is functional. Employees of the College are expected to use software in compliance with the licensing agreement.

Copyright law is acknowledged to be inadequate in relation to the complexities of software use. EDUCAUSE, a nonprofit organization that supports the use of technology in education, launched the EDUCAUSE Software Initiative, which developed a statement of principle intended for adaptation and use by individual colleges and universities. Its text is reproduced in full below:

### A. The EDUCAUSE/Code-Software and Intellectual Rights

Respect for intellectual labor and creativity is vital to academic discourse and enterprise. This principle applies to works of all authors and publishers in all media. It encompasses respect for the right to acknowledgment, right to privacy, and right to determine the form, manner, and terms of publication and distribution.

Because electronic information is volatile and easily reproduced, respect for the work and personal expression of others is especially critical in computer environments. Violations of authorial integrity, including plagiarism, invasion of privacy, unauthorized access, and trade secret and copyright violations, may be grounds for sanctions against members of the academic community.

## IX. Digital Millennium Copyright Act

The Digital Millennium Copyright Act signed into law on October 28, 1998 includes limitations for service provider liability relating to materials online. The new subsection of the copyright law provides limitations on service provider liability with respect to information residing, at the direction of a user, on a system or network that the service provider controls or operates, if the service provider has designated an agent for notification of claimed infringement by providing contact information to the Copyright office and via through the service provider's publicly accessible website (17 U.S. Code 512 c). Pellissippi State has designated the director of Library Services as the agent who will receive notifications of claimed infringements.

Contact Information: Peter Nerzak  
Library Services  
10915 Hardin Valley Road  
P.O. Box 22990  
Knoxville, TN 37933-0990  
Phone: 865-694-6517  
FAX: 865-694-6625  
E-Mail: [pnerzak@pstcc.edu](mailto:pnerzak@pstcc.edu)

---

Source: Copyright Act of 1976  
Digital Millennium Copyright Act of 1998  
Approved: President Allen G. Edwards, February 1, 2000  
Approved: President Allen G. Edwards, February 28, 2005  
Editorial Changes, July 1, 2009