



## Procedure 142-01 Copyright Law Compliance

Sponsor: Academic Affairs

### Purpose

Identify the responsibilities of instructors and staff of Coconino Community College (the “College”) when copying and using copyrighted material. The College believes the learning experience is improved when students have access to interesting and thought-provoking materials. Providing such access, however, requires balancing those educational interests with the rights of authors and creators.

### Definitions

**Copyright:** a body of exclusive rights granted by law to copyright owners for protection of their work.

**Fair Use:** a legal doctrine permitting the unlicensed use of copyright -protected works in certain circumstances and uses, such as criticism, comment, news reporting, teaching, scholarship, and research.

**Work:** any created product, broadly including songs, books, articles, poems, photographs, videos, speeches, paintings, etc.

**Copyright Liaison:** The liaison’s role is to advise faculty and librarians on the conditions of fair use and copyright with regard to instructional materials. In addition, the liaison is available to help instructors understand the permissions process, to discuss the elements of a permissions letter, and to provide a sample. The college’s Copyright Liaison is the CCC Librarian.

### Procedure

Copyright is a property right owned by the author or creator of a creative work. This broadly includes books, articles, movies, plays, songs, poems, photographs, videos, computer software and code, and any other form of expression that exists in tangible form. The owner of a copyright has the exclusive right to: reproduce all or part of a work, distribute copies, modify a work or make alternative versions based on the original work (called derivative works), display a work, and publicly perform a work. A copyright owner can prohibit others from doing any of these things without the owner’s permission.

**There is no requirement that a work be registered with the U.S. Copyright Office or bear the © emblem in order to be protected by copyright.** Also, copyright protection covers both published and unpublished works. While works in the public domain may be used freely without permission, that is generally limited to works published 75 or more years ago. In short, if you are considering using any type of expressive work created in the last 100 years, you should be aware copyright may be an issue.

### Using Works in the Classroom

Instructors and students are free to display or perform a copyrighted work during face-to-face instruction as part of a class. For example, an instructor can show students a movie, photograph, or painting in the classroom or another location where class is being held. Likewise, a student can perform a copyrighted song or play during a class. However, the work being displayed cannot be an illegal copy, which the person displaying the work knows was not legally obtained (such as an illegally downloaded movie).

### Using Works in Online Courses

The following guidelines from the federal Technology, Education and Copyright Harmonization Act of 2002 (TEACH) Act apply to the performance or display of copyrighted works in online courses.

1. Instructional Purpose. A work can only be performed or displayed during a mediated teaching session, and it must be an integral part of the class which is directly related and of material assistance to the content of the course. In other words, copyrighted works must be directly relevant to the course and not for purposes other than education.
2. Amount Shown. The amount of a work shown in an online course should be comparable to the amount that would be used in face-to-face teaching. Entire nondramatic literary or musical works (this includes poetry, novels, songs, and articles), and reasonable and limited portions of any other work, are permitted.
3. Access Restricted. The transmission of a work online must be limited to students currently enrolled in the course to which the work relates. Official courseware packages that are restricted to students in the class should meet this requirement.
4. Copying Restricted. Reasonable measures must be taken to prevent retention of an electronic work for longer than the class session in which it is used or dissemination of a work to others. Images and graphics may be made available in a format that limits printing and saving. Works such as video and audio should be streamed to avoid downloading and saving a file.

### *Prohibitions in Online Course Use*

The College does NOT permit use of a work in an online course without permission if the work is:

1. Produced or marketed primarily for use in online education. You must get a license or permission to use such material.
2. An illegal copy, or suspected illegal copy, of a work.

### Fair Use

Fair Use applies both to distance education and in-person teaching. The “fair use” exemption to the copyright law is often misunderstood. **Fair use does not automatically permit any copying of a work for an educational purpose.** Rather, it is a limited defense to copyright infringement, which allows the use of excerpts of copyrighted materials in certain situations.

Whether use of a copyrighted work qualifies as fair use is a very fact-specific question. The factors to deciding fair use include the following:

1. Purpose of Use. Teaching, research, criticism, and comment are favored. Commercial use is disfavored. A transformative use that changes the way a work is presented (i.e., making a collage of small excerpts of text) is favored.
2. Nature of Use. Use of factual or nonfiction works is favored, while use of highly creative works (such as fiction, art, music, novels, films, and plays) is disfavored. Use of a published work is favored over use of an unpublished work.
3. Amount Used. Using a small excerpt, or a portion that is not central or significant to the entire work, is favored. Using a large portion or a whole work, or the centrally important “heart of the work,” is disfavored.
4. Effect of Use. Fair use is most likely to be found if the use creates no significant effect on the market for a work. Fair use is most likely to be rejected if a use replaces a sale of a copyrighted work or otherwise impairs an existing or potential market for a copyrighted work or a derivative. If you copy a work to avoid paying to buy or license a work, that is almost certainly not fair use.

**There is no general standard for fair use.** Each use depends on its own facts. If you have a specific question about fair use, please contact the college's Copyright Liaison, the CCC Librarian at the telephone number or email address listed at the end of this Procedure.

### Photocopying Print Media

The following legal guidelines apply to photocopying books, periodicals, articles, and other print media (not including photographs, pictures, etc.) by nonprofit educational institutions. *These guidelines do not apply to works shared online through the Learning Management System.* Copying print media as specified in these guidelines is permitted by the College.

### *Single Copies by Instructors*

An instructor may make one copy of any of the following for scholarly research or use in teaching or preparing for a class:

1. chapter from a book
2. article from a newspaper or periodical
3. short story, short essay, or short poem
4. chart, graph, drawing, cartoon, or picture from a book, periodical, or newspaper.

### *Multiple Copies for In-Person Classroom Use*

1. An instructor cannot make multiple copies (limit one per student) for use and discussion in the in-person classroom unless all of the following apply: The copying must be at the inspiration of the individual instructor, not administrators or other higher authorities.
2. The instructor's decision to use a work and its use for maximum teaching effectiveness must be so close in time that there is not reasonably enough time to ask for permission from the author.
3. The amount of a work copied must be limited as follows:
  - a. Poetry – complete poem if less than 250 words, or maximum 250-word excerpt of a longer poem.
  - b. Prose – complete article, story, or essay if less than 2,500 words; an excerpt of any prose work of less than 1,000 words or 10% of the work, whichever is less.
  - c. Illustration – one chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.
  - d. Children's book combining words and pictures – an excerpt of no more than two pages and containing less than 10% of the words in the text.
4. The number of times a work can be copied must be limited as follows:
  - a. Copies can be used only for one term of one course and may not be developed into a permanent classroom document.
  - b. No more than one short poem, article, story, essay, or two excerpts, may be copied from the same author.
  - c. No more than nine instances of copying for one course per term.

### *Prohibitions on Copying Multiple Works*

Notwithstanding the above rules, the following are prohibited in all cases:

1. Copying cannot be used to replace purchasing books, periodicals, anthologies, compilations, or collective works.
2. No copying of works intended to be "consumable" in the course of study or teaching, such as workbooks, exercises, standardized tests, and test booklets.
3. No use or distribution of a work that was obtained illegally, such as through piracy or another form of illegal copying.

4. You must not direct a subordinate to copy a work in violation of this Procedure.

#### Copying or Sharing Electronic Media

Copyright protects electronic media just as it would any other work. Further, sending a file from one computer to another—such as via email—generally constitutes making a copy of the work. Given the ease with which many copies of an electronic work can be made with a push of a button, transmitting works via computer or online can create significant copyright issues.

Copyright law gives the purchaser of a software program the right to load one copy onto one computer and to make another copy for “archival” purposes only (i.e., to replace a lost or stolen original). Otherwise, the use of electronic media such as software and e-books is generally controlled by a license. A license is an agreement between the creator and the user that describes how the media may be used. The license for a particular software program or e-book may allow multiple users, up to a certain number, or allow use in certain types of electronic environments, such as locally on a PC or on the Internet. For e-books purchased through the College, the license may specify that an instructor may copy the e-book for certain purposes or allow access to the book to a specified number of students for educational purposes.

Library resources are a common example of licensed use. CCC Library’s database articles and eBooks may be freely shared among the college because we have purchased a license to use them in that way.

#### *Creative Commons Licenses*

In an online educational setting, many electronic works are controlled by Creative Commons licenses. Creative Commons licenses usually allow free re-use of the licensed content, with certain restrictions specified in the license. For example, a Creative Commons license may allow free use of a work but require attribution, permit non-commercial use only, or prohibit making derivative works. For more details see <https://creativecommons.org/licenses/>.

#### *Using Links*

Rather than emailing or electronically distributing actual copies of a work, such as a PDF of an article, it is preferable instead to send a link to the online site where the work was published. Distributing a PDF or other electronic file creates a copy to each recipient, whereas distributing a link does not.

#### *Piracy Prohibited*

Pirating software or other electronic media by making unauthorized copies can subject an individual to criminal and civil liability. Use of College resources to make unauthorized copies of media, such as DVDs, CDs, and software is strictly prohibited.

If you need assistance interpreting a license or have questions about electronic media distribution, please contact the Copyright Liaison (CCC Librarian).

#### **References**

Federal Technology, Education and Copyright Harmonization Act of 2002 (TEACH) Act  
Crews, Kenneth D. *Copyright Law for Librarians and Educators*. 3<sup>rd</sup> Ed. Chicago, American Library Association, 2012

#### **Procedure History**

01/25/2012      New and Adopted by College Council  
12/14/2016      Revised

02/21/2021 Revised and approved by Executive Leadership Council

**Legal Review**

12/14/2016 and Fall 2020