

## 142-01 COPYRIGHT LAW COMPLIANCE—PROCEDURE

### 1. 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.

### 2. 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or bear the © emblem in order to be protected by copyright.** Also, copyright protection covers both published and unpublished works.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 before 1923. 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.

#### **Use of 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).

#### **Fair Use**

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 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 at the telephone number or email address listed at the end of this Procedure.

### **Copying Print Media**

The following legal guidelines apply to copying books, periodicals, articles, and other print media (not including photographs, pictures, etc.) by nonprofit educational institutions. 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 Classroom Use. An instructor can make multiple copies (limit one per student) for use and discussion in the classroom, if all of the following apply:

1. The copying must be at the inspiration of the individual instructor.
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 BitTorrent or another form of illegal copying.
4. You must not direct a subordinate to copy a work in violation of this Procedure.
5. Students cannot be charged any more than the actual cost of photocopying a work.

### **Copying 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.

Creative Commons Licenses. In an online educational setting, such as Wikimedia Commons, 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.

### **Using Works in Online Courses**

The following guidelines from the federal 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.
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, 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.

### **3. QUESTIONS?**

If you have any questions about this Procedure or a particular issue relating to copyright, please contact the College's Copyright Liaison, the Provost/Vice President of Academic Affairs.

### **4. BACKGROUND**

1. References: none
2. Revision history: 01/25/2012, 12/14/2016
3. Legal review: 12/14/2016
4. Sponsor: Academic Affairs

Adopted by College Council: 01/25/2012, 03/02/2017

**COCONINO COMMUNITY COLLEGE**