

Greensboro College Copyright and Fair Use Policy and Guidelines

Copyright Policy

The College is committed to complying with all applicable laws regarding copyright, as codified at Title 17, *United States Code*, Sect. 101 et seq. As an institution devoted to the creation, discovery, and dissemination of knowledge, the College supports the responsible, good faith exercise of full fair use rights as codified in law. All faculty, staff, and students are responsible for complying with College guidelines regarding the fair use of copyrighted materials and for complying with the requirements of copyright law, including obtaining required permissions to use copyrighted materials. Faculty, staff, and students shall not exercise any rights under copyright law in works owned by others unless they have prior written permission of the copyright holder, the work is in the public domain, or the use of the work qualifies as fair use under copyright law.

(See *Policy on Intellectual Property Rights*, Sec. VI, i, in the *Faculty Handbook*)

The full text of the copyright law and its legislative history, plus subsequent analysis and commentary, are available in Jones Library and on the Internet; see “For More Information,” below. Greensboro College’s Intellectual Property Council (IPC) can assist faculty and staff with issues not addressed by the guidelines.

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

Copyright and Fair Use Guidelines

What Is Copyright?

Copyright promotes the arts and sciences by providing legal protection to creators of original works. Section 106 of the Copyright Act (17 U.S. Code Sec. 106) generally gives the copyright owner, who is not necessarily the creator, the exclusive right to do, and to authorize others to do, the following:

1. **Reproduce or copy** the work
2. **Prepare derivative works**
3. **Distribute copies** of the work
4. **Perform** work publicly
5. **Display** the work publicly
6. **Perform** the work publicly via digital audio transmission

Is It Still Under Copyright?

Under current law, the duration of copyright is as follows:

- Life of the author plus 70 years
- In the case of joint authorship, 70 years after the death of the last surviving author
- When work for hire or in scope of employment, 95 years or 120 years from date of creation (whichever expires first)
- For anonymous and pseudonymous works, 95 years from first publication or 120 years from creation, whichever is shorter

For works copyrighted before 1950 and renewed before 1978

- 95 years (a first term of 28 years plus a renewal of 67 years)

Works originally copyrighted between 1 January 1950 and 31 December 1963:

- Copyrights still in their first term on 1 January 1978 had to be renewed in order to be protected for a second term.
- If the copyright was renewed, the second term was 67 years. If the copyright was not renewed, the copyright expired on December 31 of the 28th year.

Works originally copyrighted between 1 January 1964 and 31 December 1977.

- The copyright law was amended to make renewal optional.
- The copyright is still divided into a 28-year term and a 67-year renewal, but if a formal renewal is not made, the copyright renews automatically on December 31 of the 28th year.

Fair Use

Fair use allows exceptions to the copyright owner's exclusive rights by permitting others to make reasonable use of the material without the consent of the copyright owner. The doctrine of "fair use" is based on court decisions rather than statutes and is codified in Section 107 of the Copyright Act (17 U.S. Code Sec. 107). Fair use includes reproduction of copyrighted work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, and research. Because court decisions rather than statutes and regulations have determined fair use, it can sometimes seem imprecise.

The Four Factors of "Fair Use"

Section 107 of the Copyright Act specifies four factors to consider in determining fair use:

- 1. The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes.** This factor is not conclusive on its own. A nonprofit school or library can violate copyright law.
- 2. The nature of the copyrighted work.** A factual book or a book of designs intended to be copied may be more conducive to fair use than a creative work.
- 3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole.** There is not a definitive number of words, lines, or musical notes that may be used without permission. Factors include the percentage of the work that is copied and the significance of the portion copied.

- 4. The effect of the use upon the potential market for or value of the copyrighted work.**
The courts generally consider this the most important factor in determining fair use. The purpose of copyright is to promote the arts and sciences by providing protection to the creators. If a specific use damages the market for the creator's product, it undermines the incentive to create.

Print Materials

Works in the Public Domain. These works may be used without permission:

- Works with expired copyrights
- Works placed in the public domain by the creator
- Works that were first published before 1 January 1978 without a copyright notice
- Most United States government documents (check for a copyright notice; some are published by private agencies)

Single Copies for Educators

A teacher may make a single copy of the following for research or course preparation:

- A book chapter
- A periodical or newspaper article
- A short story, short essay, or short poem
- A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper
- An individual may make a copy of an entire book for scholarship, private study, or research if a copy cannot be located for a reasonable price via a "vigorous marketplace search" and an attempt to obtain permission from the copyright owner. Library staff can help identify out-of-print book dealers and other resources for a marketplace search.

Multiple copies for classroom use

The American Library Association's *Model Policy Concerning College and University Photocopying for Classroom, Research, and Library Reserve Use* recommends that:

- Distribution of the same photocopied material does not occur every semester.
- Only one copy is distributed for each student.
- The material includes a copyright notice on the first page of copy.
- Students are not assessed any fee beyond the actual cost of the photocopying.

Multiple copies for classroom use must meet the following tests for **brevity**, **spontaneity**, and **cumulative effect**.

Brevity:

- **Poetry:** (a) a complete poem if less than 250 words and two pages or b) an excerpt of 250 or fewer words
- **Prose:** (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 a minimum of 500 words

- **Illustrations:** One chart, graph, diagram, drawing, cartoon, or picture per book or periodical issue

Spontaneity:

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

Cumulative Effect

- The copying of the material is for only one course in the school in which the copies are made.
- Not more than one short poem, article, story, essay, or two excerpts may be copied from the same author, or more than three from the collective work or periodical volume during one class term. (Excludes current newspapers and news periodicals.)
- There shall not be more than nine instances of such multiple copying for one course during one class term. (Excludes current newspapers and news periodicals.)

Prohibitions

- Copying shall not be used to create or to replace or substitute for anthologies, compilations, or collective works.
- There shall be no copying of or from works intended to be “consumable” in the course of study or of teaching, such as workbooks, exercises, standardized tests, test booklets, and answer sheets.
- Copying shall not:
 - Substitute for the purchase of books, publishers’ reprints, or periodicals.
 - Be directed by higher authority.
 - Be repeated with respect to the same item by the same teacher from term to term.

Course Packs

- Each item protected by copyright in a course pack requires permission from the copyright owner (usually the publisher) or a royalty fee paid to the Copyright Clearance Center.
- Each item in the course pack must include a copyright notice.
- Students should not be charged in excess of cost.

Fair Use Guidelines for Photocopying Music

- **For a performance:** emergency copying is permitted as long as copies are subsequently purchased.
- **Single copies for personal or Library Reserve use:** an entire performance unit (e.g. section, movement, aria) may be copied if it is out of print or available only in a larger work.
- **Multiple copies for classroom use (non-performance):** Excerpts may comprise no more than 10% of the entire work and may not constitute a performable unit.

Interlibrary Loan

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

CONTU (National Coalition on New Technological Uses of Copyright Works) Guidelines further restrict Interlibrary Loan practices. The CONTU Guidelines establish the maximum amount of photocopying the Library’s Interlibrary Loan service can request in a calendar year.

- During a calendar year, no more than 6 copies may be requested and reproduced from any single periodical *title* (not issue). If the library uses the periodical more frequently than this, the library should subscribe to the periodical.
- Libraries must display a “Warning Concerning Copyright Restrictions” and include it on all request forms

Library Reserve and Copyright

Because Library Reserve functions as a classroom adjunct, the guidelines for Multiple Copies for Classroom Use (above) are relevant. The following Library Reserve Guidelines are adapted from the American Library Association’s *Model Policy Concerning College and University Photocopying for Classroom, Research, and Library Reserve Use*, March 1982:

- At the request of a faculty member, the Library will photocopy and place on reserve excerpts from copyrighted works *in its collection* in accordance with guidelines similar to those governing formal classroom.
- If the request calls for only one copy to be placed on Reserve, the Library will photocopy an entire article, 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.
 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.
 3. The material should contain a notice of copyright.
 4. The effect of photocopying the material should not be detrimental to detrimental to the market for the work. In general, the Library should own at least one copy of the work
- The Library will accept for Reserve professors’ personal copies of copyright-protected chapters, articles, or other copies made under the guidelines for making single copies for scholarly use. If the original is not owned by the Library, the Library will place only the professor’s copy on reserve; we will not make copies for reserve.

Unpublished Works

Manuscripts, letters, and other unpublished materials are protected by copyright, even if they lack a copyright notice. Copies of archival materials in the Brock Museum may be made for individual researchers under Fair Use provisions.

Film and Video

Classroom Use

The purchase or rental of a film or video does not automatically include the right to show it publicly. The rental or purchase agreement specifies the circumstances in which a film or video may be shown and the film or video is labeled accordingly. However, whatever the purchase or rental agreement or labeling, use of these media is permitted in an educational institution so long as certain conditions are met.

Section 110 (1) of the Copyright Act specifies that the following is permitted:

Performance or 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, 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 House Report No. 94-1476, 94th Cong., 2d Sess. 52-53 (1976) combine to provide the following list of conditions, compiled by Helm:

1. The film must be shown as part of the instructional program.
2. The film must be shown by students, instructors, or guest lecturers.
3. The film 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.
4. The film must be shown either in a face-to-face setting or where students and teacher(s) are in the same building or general area.
5. The film must be shown only to students and educators.
6. The film must be shown using a legitimate (that is, not illegally reproduced) copy with the copyright notice included.

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

Film and Video Outside the Classroom

- In addition to classroom viewing, videocassettes and DVDs in the Library's collection may be viewed by students, faculty, or staff at workstations or in the small Library classroom with viewing capability.

- Students and faculty members may view the videos in their own homes as long as the audience is limited to a small group of friends. Larger audiences (e.g. in a recreational facility or dorm common room) require explicit permission from the copyright owner for public performance rights.
- No fees for viewing a film or video are permitted even when public performance rights are obtained.
- It is illegal to copy videotapes without obtaining the copyright owner's permission.

Sound Recordings

Music Recordings

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

Non-Music Recordings

Recording brief excerpts is considered fair use. Entire cassettes or disks may not be copied.

Slides and Photographs

Section 110 of the Copyright Act 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 non-profit educational institution, in a classroom or similar place devoted to instruction" so long as the copy was lawfully made. The purpose of the display must be integral to the course.

Educational Multimedia

The following guidelines are adapted from *Fair Use Guidelines for Educational Multimedia*, prepared by the Consortium of College and University Media Centers (CCUMC). Although these guidelines do not carry the force of law, they have been endorsed by many organizations.

Students

- Students may incorporate portions of lawfully acquired copyrighted works into their own educational multimedia projects for a specific course.
- Students may perform and display their own educational multimedia projects created under these guidelines in the course for which they were created and may use them in their own portfolios as examples of their academic work for later personal uses such as job and graduate school interviews

Faculty

- Educators may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia programs for their own teaching tools in support of curriculum-based instructional activities at educational institutions.
- Educators may perform and display their own educational multimedia projects created under these guidelines to students in face-to-face instruction, as assigned in directed independent study, for remote instruction to students enrolled in courses and located at remote sites, provided over the educational institution's secure electronic network in real-time, or for after class review or directed self-study, provided there are technological limitations on access to the network and educational multimedia project (such as a password or PIN) and provided further that the technology prevents the making of copies of copyrighted material.
- Educators may perform or display their own multimedia projects created under these guidelines in presentations to their peers, for example, at workshops and conferences.
- Educators may retain educational multimedia projects created under these guidelines in their personal portfolios for later personal uses such as tenure review or job interviews.
- Educators may use their educational multimedia projects created for educational purposes under these guidelines for teaching courses, for a period of up to two years after the first instructional use with a class. Use beyond that time period, even for educational purposes, requires permission for each copyrighted portion incorporated in the production.

Motion Media: 10% or 3 minutes, whichever is less, in the aggregate of a copyrighted motion media.

Text: Up to 10% or 1000 words, whichever is less. Educators or students may use an entire poem of less than 250 words, but no more than three poems by one poet, or five poems by different poets from any anthology. For poems of greater length, individuals may use up to 250 words, but no more than three excerpts by a poet, or five excerpts by different poets from a single anthology may be used.

Music, Lyrics, and Music Video: Up to 10%, but no more than 30 seconds, of the music and lyrics from an individual musical work. Any alterations to a musical work shall not change the basic melody or the fundamental character of the work.

Illustrations and Photographs: Educators or students may use a photograph or illustration in its entirety, but no more than 5 images by an artist or photographer may be reproduced or incorporated. When using photographs and illustrations from a published collective work, individuals may incorporate no more than 10% or 15 images, whichever is less.

Copying and Distribution Limitations

Only a limited number of copies, including the original, may be made of an educator's educational multimedia project. There may be no more than two use copies only one of which may be placed on reserve.

An additional copy may be made for preservation purposes but may only be used or copied to replace a use copy that has been lost, stolen, or damaged.

Permission is required for...

- Commercial reproduction and distribution.
- Duplication and distribution beyond these guidelines.
- Distribution over electronic networks.

Caution in Downloading Material from the Internet

Educators and students are advised to exercise caution in using digital material downloaded from the Internet in producing their own educational multimedia projects, because there is a mix of works protected by copyright and works in the public domain on the network. Access to works on the Internet does not automatically mean that these can be reproduced and reused without permission or royalty payment and, furthermore, some copyrighted works may have been posted to the Internet without authorization of the copyright holder.

Educators and students are reminded to credit sources and to display the copyright notice and copyright ownership information (if shown in the original source), for all works incorporated into educational multimedia projects prepared by educators and students. Citations must adequately identify the source of the work, giving a full bibliographic description where available. The copyright ownership information includes the copyright notice, consisting of the word "copyright" or the copyright symbol, the name of the copyright holder, and the year of first publication.

Alterations to Copyrighted Works

Educators and students may alter portions of copyrighted works they incorporate into educational multimedia projects only if the alterations support specific instructional objectives. Educators and students are advised to note that they made alterations..

Example of Notice of Use Restrictions

"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."

How to Obtain Permission

Jones Library has examples of letters requesting permission to copy materials under copyright.

For More Information:

In the Library:

Bruwelheide, Janis H. *The Copyright Primer for Librarians and Educators*, 2nd ed. Chicago and Washington, D.C.: American Library Association and National Education Association, 1995. Reference Z649.F35B78 1995

Crews, Kenneth D. *Copyright Essentials for Librarians and Educators*. Chicago: American Library Association, 2000. Reference KF2995 .C74 2000

Helm, Virginia M. *What Educators Should Know About Copyright*. Bloomington, IN: Phi Delta Kappa Educational Foundation, 1986. Reavis Collection LB5 .F3 no.233

On the Web:

United States Copyright Office website.

Available online: <http://lcweb.loc.gov/copyright/>

United States Copyright Office. *Circular 21: Reproductions of Copyrighted Works by Educators and Librarians.*

Available online: <http://www.copyright.gov/circs/circ21.pdf>

United States Copyright Office. *Copyright Law of the United States.*

Available online: <http://www.copyright.gov/title17/>

Stanford University Libraries. *Copyright and Fair Use Website.*

Available online: <http://fairuse.stanford.edu/>

The Stanford website is widely cited as one of the best resources on fair use. It includes a “fair use reminder” written by former Stanford Provost Condoleezza Rice.

The University of Texas System. *Copyright Crash Course.*

Available online: <http://www.utsystem.edu/ogc/IntellectualProperty/cprtindx.htm>

An excellent resource for understanding intellectual property in the academic environment. Includes a tutorial.

Consortium of College and University Media Centers (CCUMC).

Fair Use Guidelines for Educational Multimedia.

Available online: <http://www.indiana.edu/~ccumc/copyright/ccguides.html>

Board of Regents of the University System of Georgia. Office of Legal Affairs. *Regents Guide to Understanding Copyright and Educational Fair Use.*

Available online: <http://www.usg.edu/admin/legal/copyright/>

Model Policy Concerning College and University Photocopying for Classroom, Research, and Library Reserve Use (1982). American Library Association.

Available on the Coalition for Networked Information's website:

<http://www.cni.org/docs/info.policies/ALA.html>

The WATCH File: Writers, Artists, and Their Copyright Holders. Harry Ransom Humanities Research Center, University of Texas at Austin, and University of Reading.

Available online: <http://tyler.hrc.utexas.edu/>

A database containing primarily the names and addresses of copyright holders or contact persons for authors and artists whose archives are housed in libraries and archives in North America and the United Kingdom. Its objective is to provide information to scholars about whom to contact for permission to publish text and images that still enjoy copyright protection.

Resources Used in Creating This Guide

American Library Association, *Model Policy Concerning College and University Photocopying for Classroom, Research and Library Reserve Use* (the "Model Policy"). Available on the Coalition for Networked Information's website:

<http://www.cni.org/docs/info.policies/ALA.html>

Bruwelheide, Janis H. *The Copyright Primer for Librarians and Educators*. 2nd ed. Chicago and Washington, D.C.: American Library Association and National Education Association, 1995.

Greensboro College. *Policy on Intellectual Property Rights*, Sec. VI, i. Included in the *Faculty Handbook*.

Helm, Virginia M. *What Educators Should Know About Copyright*. Bloomington, IN: Phi Delta Kappa Educational Foundation, 1986.

United States Copyright Office *Circular 21: Reproduction of Copyrighted Works by Educators and Librarians*. Circular 21 is available at: <http://www.copyright.gov/circs/circ21.pdf>

Wellesley College. *Copyright Policy*. Available online:

<http://www.wellesley.edu/Library/copyright.html>

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