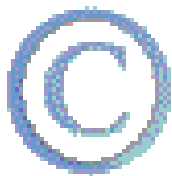




# **Northwest-Shoals Community College**



## **Copyright Compliance Policy**

*Updated: June 21, 2010*

# NW-SCC Copyright Policy

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## ***Purpose of Copyright Compliance***

The purpose of Northwest-Shoals Community College’s Copyright Compliance Policy is to provide a summary of U.S. copyright law as it relates to the use of copyright protected materials in the classroom, and to provide guidelines and procedures for obtaining copyright permission to use these works.

U.S. copyright law contains many gray areas, and the goal of this policy is to provide NW-SCC administrators, faculty, librarians, students, employees, and others with a standard approach for addressing complex copyright issues. This policy covers classroom and library issues such as photocopying as well as distance education.

This policy provides practical advice and procedures on copyright-related matters; however, it is not a substitute for legal advice, and proper legal advice should be obtained when necessary.



## ***What is Copyright?***

Copyright is an area of law that provides creators and distributors of creative works with an incentive to share their works by granting them the right to be compensated when others use those works in certain ways. Specific rights are granted to the creators of creative works in the U.S. Copyright Act (title 17, U.S. Code). If you are not a copyright holder for a particular work, as determined by the law, you must ordinarily obtain copyright permission prior to reusing or reproducing that work. However, there are some specific exceptions in the Copyright Act for certain academic uses, and permission is never required for certain other actions, such as reading or borrowing original literary works or photographs from a library collection.



## ***What is Protected by Copyright?***

The rights granted by the Copyright Act are intended to benefit “authors” of “original works of authorship”, including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural and audiovisual creations. This means that virtually any creative work that you may come across – including books, magazines, journals, newsletters, maps, charts, photographs, graphic materials, and other printed materials; unpublished materials, such as analysts’ and consultants’ reports; and

non-print materials, including electronic content, computer programs and artistic works – is almost certainly protected by copyright. Among the exclusive rights granted to those “authors” are the rights to reproduce, distribute, publicly perform and publicly display their works.

These rights provide copyright holders control over the use of their creations and an ability to benefit, monetarily and otherwise, from the use of their works. Copyright also protects the right to “make a derivative work,” such as a movie from a book; the right to include a work in a collective work, such as publishing an article in a book or journal; and the rights of attribution and integrity for “authors” of certain works of visual art. Copyright law does not protect ideas, data or facts.

In the U.S., the general rule of copyright duration for a work created on or after January 1, 1978 is the author’s life plus 70 years after the author’s death. This is often referred to as “life-plus-70”. Works created by companies or other types of organizations generally have a copyright term of 95 years. For more information on copyright duration, visit <http://www.copyright.gov/circs/circ1.html#hlc>.



## *What is Fair Use?*

A provision for fair use is found in the [Copyright Act at Section 107](#). Under the fair use provision, a reproduction of someone else’s copyright-protected work is likely to be considered fair if it is used for one of the following purposes: criticism, comment, news reporting, teaching, scholarship and research. If the reproduction is for one of these purposes, a determination as to whether the reproduction is fair use must be made based upon four factors:

1. The purpose of use – commercial or nonprofit, educational use;
2. The nature of the copyright-protected work;
3. The amount and substantially of the portion used; and
4. The effect of the use being evaluated upon the potential market for or value of the copyright-protected work.

To avoid confusion and minimize the risk of copyright infringement, NW-SCC interprets the following situations as fair use in a traditional classroom environment:

- Quotation of short passages in a scholarly or technical work for illustration or clarification of the author’s observations;
- Reproduction of material for classroom use where the reproduction is unexpected and spontaneous – for example, where an article in the morning’s paper is directly relevant to that day’s class topic. This would generally cover one time use in only one semester;

- Use in a parody of short portions of the work itself;
- A summary of an address or article, which may include quotations of short passages of the copyright-protected work.

### **Tips for Practicing Fair Use in a Distance Education Environment / Course Management System**

- Never assume that all online materials are free to be used in your class.
- Limit posted materials to only what is required for teaching purposes.
- If you use the same materials every semester, do not leave the materials posted online indeterminately without receiving copyright permission.
- Include copyright notices where applicable.

For specific examples for posting materials online and other distance education formats, see *Appendix A – Fair Use Examples for Distance Education*.

If your use does not meet the above criteria and the work is protected by copyright, you probably need to obtain permission to use the work from the copyright holder or its agent.

Alternative: Refer to the **Fair Use Checklist\*** in Appendix B for Guidelines on Determining Fair Use.

*\*Fair Use Checklist used by permission from the North Carolina State University Library.*



## **Classroom Handouts**

If a handout is planned in advance, repeated from semester to semester, or involves works that have existed long enough that one could reasonably be expected to obtain copyright permission in advance, you must obtain copyright permission to use the work. However, if the handout is a new work that you have spontaneously decided to use and could not feasibly request and receive copyright permission, you may use the work without obtaining the permission.



## **Library Reserves**

If the NW-SCC library owns a copy of a publication, the library may place that copy on reserve without obtaining copyright permission. If the library wishes to reproduce additional copies of a work and place them on reserve for students to review, in either paper or electronic format, the library must obtain copyright permission.

## © Photocopying in the Library

The NW-SCC library may make reproductions for library users (students, faculty, etc.), provided the following criteria are met:

- The library makes one reproduction of an article from a periodical or a small part of any other work;
- The reproduction becomes the property of the library user;
- The library has no reason to believe that the reproduction will be used for purposes other than private study, scholarship and research.

*Please note that although NW-SCC library staff will assist with photocopying and/or copyright issues, it still remains the responsibility of the faculty/staff member or student to understand and abide by copyright policy.*

## © Photocopying for Students

Photocopying by students is subject to fair use as well. A single photocopy of a portion of a copyright-protected work, such as a copy of an article from a scientific journal made for research, may be made without permission. Photocopying all the assignments from a book recommended for purchase by the instructor, making multiple copies of articles or book chapters for distribution to classmates, or copying material from consumable workbooks, all require permission.

## © Use of Student Created Materials

The use of student-created materials by an institution or its faculty requires permission from the copyright holder – the student. Usage requiring consent includes the posting of student materials in a public location such as the Internet or a campus art gallery. You **must** obtain written permission before displaying a student's work in a public setting.



## Distance Education and Course Management Systems

In 2002, the Technology, Education and Copyright Harmonization (TEACH) Act became law and expanded the latitude universities, including NW-SCC, have for the performance and display of copyright-protected materials in a distance education environment, including through the use of Course Management Systems (CMS).

The copyright requirements for TEACH and CMS postings are similar to those to classroom handouts, but extend the traditional rules for those handouts to the digital transmission of materials to distance education students. If the use is spontaneous and will not be repeated, copyright permission is not required; however, the content may not remain posted for extended periods of time. If the use is planned, repeated or involves works that have existed long enough that one could reasonably expect to receive a response to a request for copyright permission, you must obtain copyright permission.

**See *Appendix A* for specific fair use examples in distance education and the previous section titled *Tips for Practicing Fair Use in a Distance Education Environment* for additional information.**

### ***Digital Millennium Copyright Act (DMCA) and Peer-to-Peer File Sharing***

Copying, distributing, and downloading copyrighted materials, including music, videos, and games for which you do not have the owner's permission are a violation of federal law. Compliance with federal copyright law is expected of all students, faculty, and staff. If you download and/or distribute unauthorized copies of copyrighted music recordings and movies, you are breaking the law and may be held legally liable for thousands of dollars in damages. Federal law provides severe penalties for the unauthorized reproduction, distribution, or digital transmission of copyrighted materials.

Popular file-sharing programs, such as KaZaA, LimeWire, Grokster, and Morpheus, commonly share downloaded files from your computer to others if you do not take action to prevent this. Most peer-to-peer software turns on file sharing by default when installed. It is illegal to share purchased music or movie files with others, again, whether you are aware that you have done it or not. NW-SCC reserves the right to remove or limit access to material posted on college-owned computers if it is alleged that copyright laws have been violated. The FBI investigates allegations of criminal copyright infringement and violators are prosecuted.



## ***Obtaining Copyright Permission***

Permission to use copyright-protected materials, when required, should be obtained prior to using those materials. It is best to obtain permission in writing (including e-mail) and to ensure that your immediate supervisor has a copy of each permission form or letter.

You will typically need to request copyright permission six months prior to the time when you will need to use the materials. If you need permission immediately, indicate this to the copyright holder in your request.

The Copyright Office of the Library of Congress ([www.loc.gov](http://www.loc.gov)) may be of assistance in locating a copyright owner if the work is registered. Note that copyright is automatically granted to the creator of a work without a registration notice being filed with the copyright office.

### **Information to Include in your Permission Request**

- Title of the material
- Creator / author of the material
- Publisher of the material
- Description of material
- ISBN or ISSN, if applicable
- Date of publication, if applicable
- Purpose for which you wish to reproduce the item
- How the material is to be reproduced
- Where the reproduced material will be used or will appear and for how long



## ***Digital Millennium Copyright Act Compliance Statement***

Northwest-Shoals Community College has appointed April Cookson, Coordinator of Distance Education, as the College's agent to receive notification of claimed infringement from a copyright owner as required by the Digital Millennium Copyright Act. NW-SCC has submitted this request to the Public Information Office, Register of Copyright and has received approval. Copyright information is available online on the NW-SCC Distance Education website and on the website of the U.S. Copyright Office.



## **Reporting Suspected Infringements**

If you suspect that anyone at NW-SCC, including a student, is using any copyright-protected material without the permission of the copyright holder, immediately report this to April Cookson at 256-331-5395 or [cookson@nwscc.edu](mailto:cookson@nwscc.edu).

*The NW-SCC Copyright Compliance Policy was last updated on June 20, 2010.*

## Appendix A – Fair Use Examples

### Principles of Fair Use

*The 1976 Copyright Act grants the “fair use” of copyrighted materials for the creation of new works, for educational use, and for personal use. The following guidelines should assist you in determining if uses of copyrighted material fall under the “fair use” clause.*

Fair use applies to all copyrighted works regardless of the media in which they are prepared whether it be print, electronic, or multimedia. Four kinds of use are included:

1. Personal use is the use of a copyrighted work for the purpose for which it was intended. (Ex. Reading a book)
2. Infringing use is a use that violates one of the rights granted to copyright holders in section 106 of the copyright statute.
3. Fair use is a use permitted by the copyright statute that might otherwise be infringing.
4. Constitutional use is the use of uncopyrightable, public domain, material and is protected by the U.S. Constitution.

Fair use normally entails three types of copying:

1. Creative fair use by authors who copy from other works to create their own work.
2. Personal fair use by individuals who copy from works for their own learning or entertainment.
3. Educational fair use by teachers, scholars, and students who copy for teaching, scholarship, or learning.

There are four factors that determine whether a use is fair:

1. The purpose of the use, including whether such use is for commercial or for non-profit educational purposes.
2. The nature of the work including whether it is a creative work, compilation, or derivative work.
3. The amount used in relation to the work as a whole. The greater the amount of a work used, the more likely the use will be a use of the copyright.
4. The effect of the use on the market or potential market for the work.

**The 1976 Copyright Act protects educational fair use with four different provisions:**

1. The use of works for “teaching.”
2. The distinction between commercial and nonprofit education use.
3. The provision that fair use overrides the limitations on library photocopying.
4. The good faith defense for employees of nonprofit educational institutions, libraries, and archives.

**The following examples are intended to aid instructors in evaluating fair use in the classroom.**

**Printed Material**

- a. Journal articles may be scanned and placed on web sites as long as course access is limited to the students currently enrolled in the class.
- b. Books may not be copied for students. Only one library reserve copy of a textbook is allowed for students. More than one would be an infringement on the marketing ability of the copyright holder.

**Multimedia Projects**

- a. Photographs used in presentations may be displayed without permission as long as it is for instructional use.
- b. These same presentations may be used for transmission to a distance classroom for remote instruction.
- c. Changes to a photograph may be made by an instructor or student as long as the audience is informed of the change to the copyrighted work.
- d. Music may be used in presentations the same as photographs in that it can be used in the traditional classroom as well as videoconferencing.
- e. Presentations involving copyrighted music and photographs may be videotaped. However, the issue of rebroadcast for videos containing copyrighted music has not been officially decided upon. The belief is that as long as the tapes are being shown for educational instruction, and a fee is not being charged, it falls under the “fair use” clause.
- f. Presentations using copyrighted photographs and music may be used in an online presentation without permission as long as access is restricted to the students enrolled in the class.

**Videotaped Instruction**

- a. Videotaped telecourse instruction created by institution that includes copyrighted text, audio, video, and photographs may be shown without permission to the students currently enrolled in the telecourse. The telecourse may also be broadcast via web as long as the audience is limited to the students currently enrolled.

- b. Broadcasting of telecourses over institutionally controlled cable channel is also allowed.
- c. Commercial videotapes, sold for instructional purposes, may be shown as part of a broadcasted telecourse either by videoconferencing or by cable channel as long as the tape is relevant to the topics being covered in class. Videotapes may also be shown online as long as access is restricted to students enrolled in the class.

### **Student Created Internet Projects**

- a. If a student creates an internet project using copyrighted materials, it cannot be used unless web access is restricted to the instructor or to the other students in the class.

### **Electronic Course Reserves**

- a. A book chapter may be added to a library reserve or online course as long as access is limited to students enrolled. The chapter must be removed at the end of the semester.

\*The above information was obtained through the University System of Georgia – Regents Guide to Understanding Copyright and Educational Fair Use. More information can be obtained from the website at <http://www.usg.edu/admin/legal/copyright/copy.html>.

## Appendix B – Fair Use Worksheet

In determining whether people may use portions of copyrighted works in their teaching and scholarship, the law permits some uses for nonprofit educational purposes, including fair uses. The following worksheet is to guide faculty in making fair use determinations. The fair use doctrine, as codified in 17 U.S.C. 107, sets forth four general factors to be considered when evaluating whether a proposed use of a copyrighted work is a fair use and thus, does not require permission from the copyright holder. The legislative history of this section and court decision have provided further insight into the application of these factors to particular situations. The following areas should be carefully considered and balanced in making a reasonable, good faith fair use determination, whether for teaching, research, or other purposes. Reliance upon fair use should be limited to those cases that meet the fair use balancing test in favor of the intended use, and are carefully documented to support that conclusion.

### General Information

Name: \_\_\_\_\_

Course, if applicable: \_\_\_\_\_ # of Students: \_\_\_\_\_

Semester:     \_\_\_ Fall   \_\_\_ Spring   \_\_\_ Summer     Year: \_\_\_\_\_

Other Use: \_\_\_\_\_

### Description of Material(s):

1. Author / Editor / Translator: \_\_\_\_\_

Publisher: \_\_\_\_\_

Book / Journal Title: \_\_\_\_\_

Chapter / Article Title: \_\_\_\_\_

2. Author / Editor / Translator: \_\_\_\_\_

Publisher: \_\_\_\_\_

Book / Journal Title: \_\_\_\_\_

Chapter / Article Title: \_\_\_\_\_

3. Author / Editor / Translator: \_\_\_\_\_

Publisher: \_\_\_\_\_

Book / Journal Title: \_\_\_\_\_

Chapter / Article Title: \_\_\_\_\_

Circle all the categories that apply below. Sign, date, and retain with appropriate accompanying materials for three years.

**The Four Factors**

*1. What is the purpose of the proposed use?*

<input type="checkbox"/> Nonprofit	<input type="checkbox"/> Criticism	<input type="checkbox"/> Commercial
<input type="checkbox"/> Teaching	<input type="checkbox"/> Commentary	<input type="checkbox"/> Entertainment
<input type="checkbox"/> Scholarship/Research	<input type="checkbox"/> Parody	<input type="checkbox"/> Bad Faith Behavior
<input type="checkbox"/> Personal	<input type="checkbox"/> Restricted Access	<input type="checkbox"/> Profit
	<input type="checkbox"/> New Reporting	<input type="checkbox"/> Lack of Attribution
	<input type="checkbox"/> Otherwise “Transformative” Use	

Uses on the left tend to tip the balance in favor of fair use. Uses on the right tend to tip the balance in favor of seeking permission from the copyright holder. The uses in the middle, if they apply, are favorable to fair use: they add weight to the tipping force of uses on the left.

**Tally:** Favours Fair Use: \_\_\_\_\_ Does Not Favor Fair Use: \_\_\_\_\_

*2. What is the nature of the copyright work to be used?*

<input type="checkbox"/> Factual	<input type="checkbox"/> A Mixture of Factual and Imaginative	<input type="checkbox"/> Creative
<input type="checkbox"/> Published	<input type="checkbox"/> Unpublished (Right of 1 <sup>st</sup> Publication)	<input type="checkbox"/> Entertainment
		<input type="checkbox"/> Consumable Materials (Workbooks, Answer Sheets)

Again, uses on the left tend to tip the balance in favor of fair use while uses on the right favor seeking permission. In this case, uses in the middle have little effect on the balance.

**Tally:** Favours Fair Use: \_\_\_\_\_ Does Not Favor Fair Use: \_\_\_\_\_

*3. How much of the copyrighted work will be used?*

<input type="checkbox"/> Small Amount	<input type="checkbox"/> Large Portion or Whole Work
<input type="checkbox"/> Amount is Appropriate for a Favored Educational Use	<input type="checkbox"/> Portion Used is Qualitatively Substantial

The amount of material should be measured both quantitatively and qualitatively. Quantity should be evaluated relative to the length of the entire work and the amount needed. The reproduction of an entire work weighs against fair use. A reproduction that is relatively small, but still uses the “heart” of the work will weigh against fair use.

**Tally:** Favours Fair Use: \_\_\_\_\_ Does Not Favor Fair Use: \_\_\_\_\_

4. What is the effect on the market or potential market for the copyrighted work?

<input type="checkbox"/> After an Evaluation of First Three Factors, Proposed Use is Tipping Towards Fair Use	<input type="checkbox"/> Replaces Sale of Copyrighted Work Significantly Impairs Market of Potential Market for the Work
<input type="checkbox"/> User Owns Lawfully Acquired Copy	<input type="checkbox"/> Numerous Copies Made
<input type="checkbox"/> No Significant Effect on the Market or Potential Market for the Work	<input type="checkbox"/> Use Makes it Publicly Accessible on the Web
<input type="checkbox"/> No Similar Product Marketed by the Copyright Holder	
<input type="checkbox"/> Copyright Holder Unidentifiable	

Reproduction that substitutes for purchase of the original weighs heavily against fair use. This factor is closely linked to the other factors.

**Tally:**                      Favors Fair Use: \_\_\_\_\_                      Does Not Favor Fair Use: \_\_\_\_\_

**Determination**

Based on the fair use analysis completed above, I have determined that my use of the materials numbered ____ falls within the fair use exception.	Based on the fair use analysis completed above, I have determined that my use of the materials numbered ____ does not fit within the fair use exception. I will obtain permission before using the material.
---	--

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Sources

The Campus Guide to Copyright Compliance

<http://www.copyright.com>

North Carolina State University Library

<http://www.lib.ncsu.edu/scc/index.html>

University System of Georgia – Regents Guide to Understanding Copyright and Educational Fair Use

<http://www.usg.edu/admin/legal/copyright/copy.html>

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