

Policy: **Copying Materials Protected by Copyright**

Policy Number: **L-1**

Responsible for Policy: Academic & Student Affairs

Approval Date: March 2011

Most recent review: Fall 2012

Date of most recent revision (*if applicable*): N/A

Policy Statement

Finger Lakes Community College will ensure compliance with all laws, rules and regulations governing the use of copyrighted materials, including, without limitation, the United States Copyright Act of 1976 as amended, the Digital Millennium Copyright Act of 1998, and the TEACH Act of 2002. Departments and individuals acting within the scope of their authority as employees of the College, including faculty, may make "Fair Use" of materials as defined in this policy. However, permission may be required when using certain materials outside of a classroom setting. An online classroom that is password protected is considered to be the same as a classroom.

Reason for Policy

The purpose of this policy is to ensure compliance by all Finger Lakes Community College departments and employees with federal laws, rules, and regulations governing the reproduction of copyrighted materials.

Applicability of the Policy

This policy applies to all employees of Finger Lakes Community College.

Definitions

None

Related Documents

Sources available via the Internet for educators to utilize include:

- Information about the law - United States Copyright Office: <http://www.copyright.gov/>
- Guidelines for online teaching: The TEACH Act:
- <http://www.utsystem.edu/ogc/intellectualproperty/teachact.htm>
- To obtain permissions: The Copyright Clearance Center: <http://www.copyright.com/>
- Meder Library has additional information on federal copyright law

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Procedures

Compliance

Enforcement of this policy begins with the executive leadership of the College; however, it is everyone's responsibility. To ensure compliance with this policy, Finger Lakes Community College will reproduce copyrighted material for faculty and staff provided the person requesting the duplicating does one of the following:

1. Certifies the requested reproduction by Finger Lakes Community College without liability (see attached Duplicating Request/Copyright Compliance Authorization Form); or
2. Provides written permission from the copyright holder (see attached sample for requesting permission).

All departments are responsible for posting the following notice on all devices, which may be used for the duplication of copyrighted material, e.g., departmental photocopiers, scanners, and video recorders:

Notice: The United States Copyright Law (Title 17 United States Code) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement. If you have any questions about copyright issues, please consult the resources at Meder Library.

Fair Use

The following is the full text of the fair use statute:

§ 107. Limitations on exclusive rights: Fair use

"Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonograph records or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include —

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

"The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors."

Employees should carefully consider those four areas when contemplating use of copyrighted materials.

(A checklist for determining Fair Use is available from the University of Indiana at <http://extended.unl.edu/faculty/policies/fairusechecklist.pdf>)

Anything that is copyrighted and distributed to others under fair use, whether photocopied or shared electronically, should give credit to the source. The following is general guidance regarding certain fair use issues. Fair use determinations are very fact specific, and each instance of fair use of materials otherwise protected by copyright should be determined based on an analysis of the specific facts and circumstances involved.

1. Fair use applies only to reproduction for such purposes as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.
2. The fact that copying is for nonprofit use may have little or no bearing on the question of fair use; all four of the areas above must be weighed.
3. Copying from a workbook designed for a course of study is most likely not fair use due to the impact on the potential market for a consumable workbook (see item 4 above in the list of Fair Use factors).
4. Copying an entire work is typically beyond what is considered to be fair use.
5. Fair use might allow teachers, acting on their own, to copy portions of a work for the classroom without the copyright owner's permission, but might not allow campus offices and employees to do so for matters related to campus business.
6. Systematic duplication of an entire work is generally not considered fair use.
7. If resulting economic loss to the copyright owner can be shown, even making a single copy of certain materials may be a violation (e.g., workbooks and other consumables).
8. Course packs do not fall within the realm of fair use.

Obtaining Copyright Permission to Reproduce Material

Copyright permission for materials not covered under section 107: Fair Use may be obtained through the Copyright Clearance Center: www.copyright.com; charges may apply. Permission may also be requested of the copyright owner directly, by mail or e-mail.

The Office of Business Services' Duplicating Center will maintain a file of copyright permissions for reproduction and use of copyrighted material. If an article or resource can be found on the Internet, linking to it is permitted by law without permission being obtained.

Forms/Online Processes

- Duplicating Request form

Appendix

- None