

<p>Treasure Valley Community College</p>

Code: **EGAAA**
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Copyright Statement

Treasure Valley Community College honors the rights of creators to control the copying, distribution and performance of their original work. The College also honors and adheres to the provisions of the U.S. Copyright Law (Title 17, United States Code, Section 101, et. seq.) which grants these rights. The College also upholds the standards in the Fair Use doctrine and the TEACH Act’s provisions. All staff and faculty are responsible for acquainting themselves with these legislative documents.

The Copyright Statement does not describe all circumstances covered under the law, but does institute operational procedures governing the use of copyrighted materials within the bounds of the College. In the educational setting, most general uses are covered under “fair use.” Individuals who disregard Copyright Law assume all liability for their actions.

About Copyright

Copyright Law protects the author’s rights to their creative work, including the right to receive financial remuneration from the reproduction and distribution of that work. Use of copyrighted materials by educators is governed by the Copyright Law, and the guidelines that have been developed to interpret the Fair Use exception that is set forth in the law. The responsibility for following Copyright Law and securing copyright clearance rests with the faculty member using the item.

Fair Use Guidelines

The U.S. Copyright Law defines fair use of a copyrighted work as the following: “ including such use by reproduction in copies or phonorecords 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 (United States Code, §107).”

Examples of Fair Use

Type of Use	Fair Use?	Explanation	Verify?
Instructor Copies	Yes	Instructors, as individuals can make a copy of articles or chapters for their own scholarly research.	No
Overheads/PowerPoint	Yes	As long as the source is credited, this face-to-face instruction always falls under Fair Use.	No
Course Handouts	Yes and No	Course handouts are allowed, but repeated use of copied materials is not.	Yes

Type of Use	Fair Use?	Explanation	Verify?
Closed Website (Blackboard)	Yes and No	Items posted should be evaluated using the four Fair Use guidelines or Campus policy.	Yes
Open Website	No	Posting items on an open-access website is against Copyright Law.	No
Library Reserves	Yes and No	Items permanently on reserve are not acceptable, however items placed for a particular assignment or temporarily, fall under Fair Use.	Yes

If you are unsure, check with the library manager to verify that this is an acceptable use of the materials. This may have to be done on a case by case basis.

Gaining Permission

Permission for usage of materials which fall outside of the Fair Use guidelines must be obtained prior to using the item. If direct contact with the copyright owner is accessible, use this first. If not, permission may be obtained through the Copyright Clearance Center.

Types of Materials and Use

1. Print Materials/Copies

Includes photocopying and printing or print copying.

- a. There can be no commercial profit of any sort as a result from making copies.
- b. A single copy may be made of a copyrighted work in the following increments:
 - (1) A single chapter from a book;
 - (2) A single article from a periodical or newspaper;
 - (3) A single short story, poem or essay from a book;
 - (4) A chart, graph, drawing or picture from any of the above mediums.
- c. Multiple copies can be made for classroom use providing that:
 - (1) The copies include a copyright notice and proper attribution to the source;
 - (2) The copied material is not a consumable work such as a workbook;
 - (3) The copying is not made as a substitute for the purchase of a collective work;
 - (4) The distribution of copied work is for one semester, in one course only;
 - (5) The number of copied items is limited to supplemental materials and not constituting course curriculum. (The suggested number is not more than nine copied items per class.)
- d. Copying is not an attempt to circumvent copyright permissions with the creation of course packs.

2. Electronic Resources/Copies

- a. Faculty and staff must obtain permission to digitize and distribute print materials electronically when the amount exceeds the fair use guidelines listed above. This includes email distribution as well as Blackboard reserves and course packs.
- b. Audio/Visual materials such as films or recordings may not be shown in their entirety, but must be limited to clips pertaining to the course instruction. The new TEACH Act has made an exception to include that all non-dramatic literary or musical works can be shown or broadcast electronically.
- c. Print materials can be digitized and distributed if the material is not available free in a digital format. If the material is, then links to the access point are required such as the website found or the database access link.
- d. All types of images can be shown electronically as long as the number shown is comparable to that of face-to-face classroom instruction.
- e. The materials distributed electronically cannot include any items the instructor knows of or has reason to believe were not legally made; or are required materials which students normally purchase, such as textbooks.
- f. All materials electronically distributed must be a standard part of the curriculum for in-class instruction, directly related to the teaching content, and only distributed to those enrolled in the class.

3. Course Reserves

Course reserves are designed to provide student access to instructional materials and not for the purpose of circumventing the copyright owner's right to receive financial remuneration from their work. All course reserves are created with the intent that the materials be used on the library premises. Amounts of materials intended for course reserve are limited to those normally required as course assignments. Library staff reserve the right to refuse materials if, in their judgment, the requested materials and intended use would exceed "fair use" or otherwise constitute copyright infringement.

- a. The reserve item must be a legally obtained copy.
- b. The item placed on reserve must be the initiative of the faculty for students' educational use.
- c. All photocopies must adhere to the print and copy guidelines listed above, have proper and complete citation and include notice of copyright included.
- d. Items to be placed on reserve must be purchased by the instructor, their educational department or the library. The library cannot hold complimentary and review copies of materials for reserve.
- e. Textbooks or that which constitutes the substantive portion of the course curriculum may be placed on reserve in the library for the first four weeks of the term. Then the items will be held by the library staff or returned to the instructor.
- f. Supplementary items may be placed on reserve by the instructor at any time during the term and remain there as long as they abide by the "fair use" guidelines.
- g. Items to remain on reserve for more than one term require a written request from the instructor each term that they remain on reserve. Items pertaining to a course not being taught that term will be removed from reserve and held by the library staff or returned to the instructor.

4. Audio/Visual

A copyrighted film may not be shown to groups of students or staff unless it meets the criteria which define a “face-to-face teaching” exemption to copyright law. Legally reproduced (not copied or personally recorded copies) work to be used only when:

- a. In a classroom or similar place devoted to instruction; and
- b. In the course of face-to-face teaching activities of a nonprofit educational institution; and
- c. As long as there is no direct or indirect admission charge; and
- d. If it is a regular part of the instructional activities; and
- e. If it is directly related to the teaching content.

5. Performing Arts

Performing Arts will abide by the specific usage agreements or licensing agreements for each work used.

- a. Performance rights will be purchased for musical and theatrical works prior to any copying of materials or distribution.
- b. Copies of written music may be made and distributed to performers as long as the rights have been purchased and each copy is collected and destroyed immediately following the performance.
- c. No commercial profit may be made from recordings of performances unless explicitly stipulated in the license agreement.

6. Library

Copies can be made from items in a library for a user at their request if not more than one article, or other part of a copyrighted collection, periodical, or recording is involved provided that the copy becomes the property of the user and the copy will not be used for any purpose other than private study, scholarship or research.

- a. The library must prominently display where copies are made, a warning of copyright infringement and that the use of the items copied must be only the use indicated above. All liability for copyright infringement for unsupervised use of reproductive equipment on the College grounds falls upon the person making the copy, providing that all equipment displays the notice required by Copyright Law.
- b. The library may make copies of individual works for the purpose of replacement of material that is damaged, deteriorating, lost or stolen if it has been owned by the library and after a reasonable effort has been made to obtain a duplicate copy if a replacement copy cannot be obtained at a fair price. This is the only exception made for audio, visual, film or print materials.

7. Copy Center

The College Copy Center will prominently display at all areas where copies are made, a warning of copyright infringement and that the use of the items copied must be in adherence with the outlined use above. All liability for copyright infringement for unsupervised use of reproductive equipment

on the College grounds falls upon the person making the copy, providing that all equipment displays the notice required by Copyright Law.

United States Copyright Law

The College upholds the U.S. Copyright Law which ensures the following rights belonging to the owner of a copyrighted work (§ 106):

1. To reproduce the copyrighted work in copies or phonorecords;
2. To prepare derivative works based upon the copyrighted work;
3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease or lending;
4. In the case of literary, musical, dramatic and choreographic works, pantomimes and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. In the case of literary, musical, dramatic and choreographic works, pantomimes and pictorial, graphic or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

Fair Use

One of the rights accorded to the owner of copyright is the right to reproduce or to authorize others to reproduce the work in copies or phonorecords. This right is subject to certain limitations found in sections 107 through 118 of the Copyright Law (title 17, U. S. Code). One of the more important limitations is the doctrine of “fair use.” The doctrine of “fair use” has developed through a substantial number of court decisions over the years and has been codified in section 107 of the copyright law.

Section 107 contains a list of the various purposes for which the reproduction of a particular work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research. Section 107 also sets out four factors to be considered in determining whether or not a particular use is fair:

1. The purpose and character of the use, including whether such use is of 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 distinction between “fair use” and infringement may be unclear and not easily defined. There is no specific number of words, lines, or notes that may safely be taken without permission.

Acknowledging the source of the copyrighted material does not substitute for obtaining permission.

The 1961 Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law cites examples of activities that courts have regarded as “fair use:”

“quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author’s observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported.”

Copyright protects the particular way an author has expressed himself. It does not extend to any ideas, systems, or factual information conveyed in the work.

The safest course is always to get permission from the copyright owner before using copyrighted material. The Copyright Office cannot give this permission.

When it is impracticable to obtain permission, use of copyrighted material should be avoided unless the doctrine of “fair use” would clearly apply to the situation. The Copyright Office can neither determine if a certain use may be considered fair nor advise on possible copyright violations. If there is any doubt, it is advisable to consult an attorney.

FL-102, Revised May 2009

Berne Convention Implementation Act of 1988

In summary, this new law states that all materials fixed in a tangible medium are considered copyrighted by law, whether the author has registered the material for copyright or not. This includes all items published online including photos, videos, performances, music, software, applications and text in print or electronic format. This law, in effect, ensures that all individual works are not considered copyright protected, and must be attributed to in all formats used by Treasure Valley Community College.

TEACH Act

The TEACH Act (Section 110(2)) allows educators to perform or display copyrighted works in distance education environments. If you would like to show a video or display an image during your online class, you may want to consider whether that use is allowable under the TEACH Act.

Implementing TEACH can be difficult because of its complexity and the many detailed requirements for instructors, technologists, and institutions. The University of Minnesota is in the process of satisfying TEACH Act requirements, so that its provisions may be available to the University community.

Benefits of the TEACH Act

1. Performances and displays of nearly all types of copyrighted works.

2. Transmission of digital materials to students at distant education locations.
3. Storage of copyrighted content for brief periods of time, such as that which occurs in the process of transmitting digital content.
4. Creating digital versions of print or analog works.

In order to take advantage of these benefits, instructors and institutions must meet certain policy requirements specified by the TEACH Act. Reasonable measures to assure that only enrolled students will have access to materials during the course of instruction must be in place before TEACH exemptions can be made. Below is a list of requirements:

1. The teaching must occur at an accredited, nonprofit educational institution.
2. Only lawfully acquired copies may be used.
3. Use is limited to performances and displays. The TEACH Act does not apply to materials that are for students' independent use and retention, such as textbooks or readings.
4. Use of materials must be within the context of "mediated instructional activities" analogous to the activities of a face-to-face class session.
5. The materials to be used should not include those primarily marketed for the purposes of distance education (i.e. an electronic textbook or a multimedia tutorial).
6. Only those students enrolled in the class should have access to the material.
7. Reasonable efforts must be made to prevent students from distributing the material after viewing it.
8. If a digital version of the work is already available, then an analog copy cannot be converted for educational use.
9. Students must be informed that the materials they access are protected by copyright.
10. The educational institution must have a policy on the use of copyrighted materials and provide informative resources for faculty advising them on their rights.

The requirements for complying with the TEACH Act are numerous. As opportunities for applying the TEACH Act are limited in scope, keep in mind that you may consider many circumstances "fair use" when using copyrighted works in distance education settings.

END OF POLICY

Legal Reference(s):

[ORS 341.290\(2\)](#)

Copyrights, 17 U.S.C. §§ 101- 1332; 19 C.F.R. Part 133 (2006).