

College Procedure:

Copyright Procedure

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CVTC respects the rights of creators of copyrighted materials and appropriate educational use of such materials. CVTC's Copyright Policy and Procedure are designed to educate employees about their obligations under copyright law.

I. COPYRIGHT PRINCIPLES

Copyright protects all “original works of authorship fixed in any tangible medium of expression” [US Code, Title 17, sec. 102(a)]. Examples of works protected by copyright include books, articles, music, drama, pantomimes, paintings, photographs, sculpture, motion pictures, audiovisual works, web interactive media, sound recordings, software, web sites, architectural works, doodles, scribbles, and graffiti. Everything protected by copyright is known as a “work of authorship.”

Copyright does not protect the ideas or facts contained in a work. Copyright protects only the particular expression of those facts or ideas.

College Procedure: Copyright Procedure (continued)

A. Ownership Rights

Copyright law grants the owner/creator exclusive right to reproduce, distribute, perform, display, or license his/her work. These rights are exclusive. If anyone other than the copyright holder wants to do one of these things, he/she needs the permission of the creator or holder of the copyright. However, the exclusive rights are subject to some exceptions. These exceptions are particularly important for educators.

B. Copyright Registration

Copyright protection is automatic and applies to every work as soon as it is completed. Registration with the U.S. Copyright Office does provide additional legal and practical benefits, but it is not required in order for a work to be considered copyrighted. It is a good idea to include a copyright notice on any work an employee creates. Proper copyright notice consists of the following three elements:

1. Word "copyright" or the © symbol;
2. Year of publication; and
3. Name of the creator or copyright owner.

C. Copyright Duration

For works created by an individual in 1978 or later, copyright lasts for the life of the author plus seventy (70) years. If the creator is an institution because the work was prepared as work for hire, the copyright lasts ninety-five (95) years from publication or one hundred twenty (120) years from creation, whichever is shorter.

For works created between 1923 and 1978, copyright protection varies in the number of years of protection and often requires that the copyright was properly obtained and renewed. Check with the CVTC Copyright Adviser or designee for assistance in determining whether a pre-1978 work is protected by copyright. Works published before 1923 are in the public domain. Works in the public domain are not protected by copyright and may be used freely.

II. FAIR USE AND EDUCATIONAL EXEMPTIONS

Although copyright grants creators the right to control their works, those rights are subject to certain limitations and exemptions. Some of these exemptions are particularly important for educators because, under certain limited conditions, the exemptions **may** permit educators to make use of copyrighted works without obtaining permission.

College Procedure: Copyright Procedure (continued)

A. Fair Use

Any person may make “fair use” of copyrighted works without obtaining permission. What constitutes fair use can only be determined definitively in federal court. Whether a particular use is a fair use is determined on a case-by-case basis after consideration of the following four factors:

1. The purpose and character of the use, including whether such use is of commercial nature or is for non-profit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the work as a whole; and
4. The effect of use upon the potential market for or value of the copyrighted work (Section 107 of the Copyright Act of 1976).

These four factors are only guidelines, and federal courts are free to adapt them on a case-by-case basis. When in doubt, seek permission from the copyright holder.

In connection with the enactment of the Copyright Act of 1976, educators and publishers have established procedures for classroom use of books and periodicals in non-profit educational institutions. These procedures permit making a limited number of copies of portions of copyrighted works if the copying meets the requirements of brevity, spontaneity, and cumulative effect.

Fair use does not permit the inclusion of book chapters or journal articles in “course packs” without the permission of the copyright owner. The use of book chapters and journal articles in course packs constitutes copyright infringement, as held in the federal case of *Basic Books, Inc. v. Kinko’s Graphics Corp.*, 758 F. Supp. 1522 (S.D.N.Y. 1991).

B. Obtaining Permission to Use Copyrighted Works

CVTC employees should follow these steps to obtain permission to use copyrighted works:

1. Determine the publication date of the material.
 - a. If the material was published before 1923, the material is in the public domain and does not require permission for use.
 - b. If the material was published between 1923 and 1978, contact the CVTC Copyright Adviser or designee to determine if permission for use is required.
 - c. If the material was created after 1978, permission for use is required.

College Procedure: Copyright Procedure (continued)

2. Determine the copyright holder.
 - a. Examine the copy of the work; look for the copyright notice and find the author and publisher listed, or
 - b. Conduct an Internet search, or
 - c. Contact the U.S. Copyright Office, or
 - d. Contact the CVTC Copyright Adviser or designee for assistance.
3. Obtain permission.
 - a. Request permission through a collective rights organization, such as the Copyright Clearance Center. Contact the CVTC Copyright Adviser or designee for assistance.
 - b. Request permission using the “Instructional Materials (Works) Ownership and Use Copyright Agreement,” located on the VISTA Forms page under the Copyright section.
 - c. Request permission by writing to the copyright holder; for sample letters contact the CVTC Copyright Adviser or designee, or see sample letter on the VISTA Forms page under the Copyright section.
4. Keep records of the request, including the following information, on the “Copyright Permission Information Record” located on the VISTA Forms page under the Copyright section:
 - a. Full citation of the work;
 - b. Media type;
 - c. Type of use;
 - d. Number of copies;
 - e. Copyright owner and contact person;
 - f. Date of request for permission;
 - g. Date permission received;
 - h. Expiration date of permission; and
 - i. Cost.
5. Consider Alternative Access. Contact the CVTC Copyright Adviser or designee or CVTC Library staff to determine if the library can provide access to copyrighted material through a subscription database

III. COPYRIGHTED WORKS IN CVTC COURSES

A. Course Packs

The use of a copyrighted work or part of a copyrighted work in a course pack without permission does not qualify as fair use or as an educational exemption under the Copyright Act.

College Procedure: Copyright Procedure (continued)

1. Instructors may place only the following materials in course packs:
 - a. Original material created by the instructor or department members preparing the course pack;
 - b. Material in the public domain; or
 - c. Materials used with permission of the copyright owner.
2. Instructors must secure permission to use copyrighted works included in course packs. See the section "Obtaining Permission to Use Copyrighted Works" (II, B).
3. Instructors must insert the following notice to students in each course pack regarding copyrighted materials:

Copyright (*Insert Current Year*), Chippewa Valley Technical College

This course pack includes copyrighted materials that are used with the permission of the authors, including materials copyrighted by Chippewa Valley Technical College.

Permission is granted for CVTC staff and faculty to reproduce, distribute, and transmit copies of this work within the College for nonprofit educational purposes. For all other uses, contact the Chippewa Valley Technical College, Eau Claire, WI 54701, 715-833-6200, to request permission for use of this copyrighted material.

CVTC encourages instructors to consider alternatives to course packs to provide access to copyrighted material for students. If the material is publicly available on the Internet or in an online database to which the CVTC Library subscribes, the instructor can provide students with the URL or a link to the material.

At the time materials for course packs are submitted to the CVTC Duplicating Center, the employee must do the following:

1. Complete a Duplicating Work Order and identify the copyrighted material to be reproduced;
2. Agree to accept responsibility for any material contained in the course pack that infringes on copyright; and
3. Attach documentation of all required permissions.

The CVTC Duplicating Center will continue printing all materials for course packs consistent with copyright law. For further information about course packs, contact the CVTC Duplicating Center Manager, CVTC Copyright Adviser, or designee.

The Bookstore located at CVTC will add to the price of the course pack any required royalties, will collect these royalties, and pay the royalties to the appropriate party or parties.

College Procedure: Copyright Procedure (continued)

B. Using Copyrighted Materials in Face-to-Face Classes

The use of a copyrighted work or part of a copyrighted work in a face-to-face instructional setting without required permission does not qualify as fair use or as an educational exemption under the Copyright Act.

The purpose of the following guidelines is to state the minimum standards of educational fair use under Section 107 of H.R. 2223. The conditions determining the extent of permissible copying for educational purposes may change in the future, but certain types of copying permitted under these guidelines may not be permissible in the future. Conversely in the future other types of copying not permitted under these guidelines may be permissible under revised guidelines.

1. Instructors may use only the following materials in a face-to-face classroom setting:
 - a. Original material created by the instructor;
 - b. Material in the public domain; or
 - c. Material used with permission of the copyright owner.
2. Instructors must secure permission to use copyrighted works in a face-to-face classroom setting; see the section "Obtaining Permission to Use Copyrighted Works" (II, B.).
3. Instructors may use copyrighted materials that are considered a "fair use" under copyright law for **one** (1) spontaneous use. Instructors must secure permission before using the same copyrighted material again in the future.

Moreover, the following statement of guidelines is not intended to limit the types of copying permitted under the standards of fair use under judicial decision that are stated in Section 107 of the Copyright Revision Bill. There may be instances in which copying that does not fall within these guidelines may nonetheless be permitted under the criteria of fair use.

1. Single Copying for Teachers: A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:
 - a. A chapter from a book;
 - b. An article from a periodical or newspaper;
 - c. A short story, short essay, or short poem, whether or not from a collective work; or
 - d. A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.

College Procedure: Copyright Procedure (continued)

2. Multiple Copies for Classroom Use: Multiple copies (not to exceed in any event more than one [1] copy per pupil in a course) may be made by or for the teacher for classroom use or discussion provided that:
 - a. The copying meets the test of brevity and spontaneity as defined in the following section; and
 - b. The copying meets the cumulative effect test as defined in the following section.

Brevity

- (i) **Poetry:** (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a longer poem, an excerpt of not more than 250 words.
- (ii) **Prose:** (a) Either 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 in any event a minimum of 500 words.
(Each of the numerical limits stated in "1" and "2" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)
- (iii) **Illustration:** One chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.
- (iv) **"Special" Works:** Certain words in poetry or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph "2" above notwithstanding such "special works" may not be reproduced in their entirety, however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof, may be reproduced.

Spontaneity

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

Cumulative Effect

- (i) The copying of the material is for only one course in the school in which the copies are made.
- (ii) Not more than one short poem, article, story, essay, or two excerpts may be copied from the same author nor more than three from the same collective work or periodical volume during one class term.
- (iii) There shall not be more than nine instances of such multiple copying for one course during one class term.

(The limitations stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of periodicals.)

Agreed March 19, 1976 by Ad Hoc Committee on Copyright Law Revision: by Sheldon Elliott Steinbach. Authors-Publisher Group; Authors League of America by Irwin Karp, *Counsel*. Association of American Publishers, Inc. by Alexander C. Hoffman, *Chairman*, *Copyright Committee*

College Procedure: Copyright Procedure (continued)

3. Prohibitions as to 1 and 2, above: Notwithstanding any of the above, the following shall be prohibited:
 - a. Copying shall not be used to create or to replace or substitute for anthologies, compilations, or collective works. Such replacement or substitution may occur whether copies of various works or excerpts are accumulated or reproduced and used separately.
 - b. There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests, and test booklets and answer sheets and like consumable material.
 - c. Copying shall not:
 - i. substitute for the purchase of books, publishers' reprints, or periodicals;
 - ii. be directed by higher authority;
 - iii. be repeated with respect to the same item by the same teacher from term to term.

The CVTC Duplicating Center will not make copies of copyrighted materials unless proof of permission for use from the copyright owner is provided.

C. Public Performance Exemption

Usually, the creator has the exclusive right to authorize the public performance or display of a work. Thus, staging a public performance of a copyrighted play or reading a book to the public without the author's permission violates copyright law. Permission is not required for such a performance in the classroom. Section 110(1) of the Copyright Act permits "performance or 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." If the requirements of section 110(1), are met, the performance or display does not need to meet the requirements of fair use.

Section 110(1) permits the instructor to play a rental video in class if the following requirements are met:

1. The performance must take place at a non-profit educational institution;
2. The performance must be given by an instructor or pupil;
3. The performance must be in the context of a face-to-face teaching situation as a regular part of the systematic instructional activities of the institution and must be directly related to the lesson content;
4. The performance must be shown in a classroom or similar place devoted to instruction;
5. The performance must use a legally-made copy; and
6. The performance must not be shown for entertainment, recreation, or reward.

College Procedure: Copyright Procedure (continued)

D. Distance Education Exemption

Under Section 110(2) of the Copyright Act, many performances or displays that would be permitted in the classroom would also be permitted to be transmitted by closed-circuit television or by the Internet to students in remote locations.

Special limitations and restrictions apply to such transmissions. Please see the section of this document for information about access-restricted online classes. If you have further questions, please contact the CVTC Copyright Adviser or designee to ensure that course materials comply with the Copyright Act.

E. Exemptions for People with Special Needs

Section 121 of the Copyright Act permits CVTC to make Braille, audio, or digital copies of some previously published works for use by persons who are unable to read standard text. For more information contact the CVTC Disability Services office.

F. Access-Restricted Online Classes

The use of a copyrighted work or part of a copyrighted work in an access-restricted online class without required permission does not qualify as fair use or as an educational exemption under the Copyright Act.

No permission is required for the spontaneous use of copied materials that are considered a “fair use” under copyright law. Fair use examples include copies of brief periodical articles, essays, stories, and excerpts of longer materials when the decision to use the copied material is made shortly before the actual use. This spontaneous use of copied material does not justify using the same material again in the future. Before future uses of the material, the instructor must obtain permission to include the copied information in an access-restricted online class. For access-restricted online classes, access is restricted to students registered in the class for the duration of the class.

Copies of the following items can be included legally in access-restricted online classes (such as Blackboard):

1. Instructors may place only the following items in access-restricted online classes (such as Blackboard sites):
 - a. Material created by the instructor;
 - b. Material in the public domain;
 - c. Copyrighted material used with permission from the copyright owner; or
 - d. Including links to other Web sites in an online class generally is permitted without receiving special permission from the copyright owner.

College Procedure: Copyright Procedure (continued)

2. For access-restricted online classes, access to course materials is restricted to students registered in the class for the duration of the class.
3. Instructors must secure permission to use copyrighted works included in access-restricted online classes; see the section "Obtaining Permission to Use Copyrighted Works" (II, B).

IV. PLACING COPYRIGHTED MATERIALS ON RESERVE IN THE CVTC LIBRARY

- A. At the request of an employee, the Library may place on reserve one physical copy of any work in its collection, as allowed under Section 108 of the Copyright Act. Individual copies usually refer to a chapter from a book; an article from a periodical or newspaper; a short story, essay, or poem; and other material, i.e., a chart, diagram, graph, drawing, cartoon; or picture from a book, periodical or newspaper.

Multiple physical copies of a work may also be placed on reserve and may be photocopied if such use adheres to the current Copyright Act. Library staff can provide information about obtaining permission to make multiple copies or about electronic reserves.

Section 108 of the Copyright Act further allows the library to make small numbers of copies for preservation purposes or for works that are no longer available through customary methods.

- B. The Library accepts no responsibility for the contents of reserve items, including monitoring use, checking the contents for missing material, or for compliance with the Copyright Law. The responsibility rests solely with the employee who places the material on Library Reserve.

Employees must sign the "Copyright Restrictions" on the Library Reserve Material Request Form for any photocopies placed on reserve. Due to copyright restrictions, each photocopied item will be accepted for only one (1) semester without written permission from the publisher.

The Library reserves the right to refuse to accept photocopies if, in its judgment, they are in violation of Copyright Law. All reserve items will have a copyright notice included in all copies available.

College Procedure: Copyright Procedure (continued)

V. COPYRIGHTED WORKS IN EXTRA-CURRICULAR ACTIVITIES

The educational exemptions for teaching activities, whether face-to-face or online, do not apply to extra-curricular activities. Therefore, the use of copyrighted materials in extra-curricular activities generally requires the permission of the copyright owner.

The public performance of a complete work, such as the playing of a videotape of a motion picture, would not be a fair use and requires permission and a license. A performance is "public" if it is at a place open to the public, such as CVTC, or anywhere a substantial number of persons outside a normal family circle and its social acquaintances are gathered.

Videos or DVDs that are rented or purchased are licensed for home use only, not public performance. A motion picture screening open to the public or to the members of an official student organization requires the motion picture to be licensed from an organization that holds the public performance rights for the film. For assistance in identifying such organizations, contact the CVTC Copyright Adviser.

Permission is required for the use of jukeboxes; the public performance of dramatic works that include music, such as an opera or musical theater; concerts presented by third parties; or the recording of performances of music.

Broadcasting or other transmission of performances raises special concerns, which can be addressed by the CVTC Copyright Adviser.

A. Using Copyrighted Materials in Extra-Curricular Activities

1. Copyrighted works used in extra-curricular activities are usually considered public performances and require public performance rights. A performance is "public" if it is performed at a place open to the public, such as CVTC, or anywhere a substantial number of persons outside a normal family circle and its social acquaintances are gathered. Examples of works that require such rights include but are not limited to
 - a. Motion pictures (VHS or DVD);
 - b. Dramatic works; or
 - c. Music.
2. CVTC employees, students, and organizations must obtain written public performance rights and should follow the procedure in "Obtaining Permission to Use Copyrighted Works" (II, B) to obtain such rights. For further assistance, contact the CVTC Copyright Adviser or designee.

College Procedure: Copyright Procedure (continued)

3. CVTC employees, students, or organizations seeking to broadcast or conduct other transmission of performances must receive additional permission and licensing from the copyright holder in writing. To obtain such permission and licensing, follow the procedure in “Obtaining Permission to Use Copyrighted Works” (II, B) or contact the CVTC Copyright Adviser or designee for assistance.
4. The CVTC employee or student who obtains the written permission must retain a copy of the written permission and send a copy to the CVTC Copyright Adviser or designee.

B. Digitization and Archiving Copyrighted Materials

1. CVTC employees seeking to digitize videos or e-stream DVDs, VCDs, or VHSs must receive written permission and/or licensing from the copyright holder before conversion. To obtain such permission and/or licensing, follow the procedure for “Obtaining Permission to Use Copyrighted Works” (II, B).
2. If such license requires payment of a fee, contact the Library or CVTC Copyright Adviser for assistance.
3. Submit copies of all written permissions, licensing, and payment information to the CVTC Copyright Adviser or designee.

VI. INTELLECTUAL PROPERTY RIGHTS

At CVTC, the “Instructional Materials (Works) Ownership and Use Copyright Agreement” establishes joint ownership of works created by employees, and the copyright is shared by CVTC and the creators of the instructional materials. Permission to use such copyrighted material requires permission from both parties.

Rights of ownership of instructional materials are subject to the Teachers’ Union Contract and all negotiated language.

A. Obtaining Permission to Use Materials Developed by CVTC Employees

Employees create materials for use in many instructional settings. For purposes of this procedure, course materials shall include items developed by employees for instructional uses. CVTC and employees share copyright ownership of such materials. See the “Instructional Materials (Works) Ownership and Use Copyright Agreement” for more information.

1. Employees and CVTC may authorize in writing permission for third parties, including publishers, to use course materials for which they own the copyrights.
2. Instructors who use copyrighted material in their course materials shall obtain and keep on file a copyright release for each source. For assistance obtaining permission, see the procedure for “Obtaining Permission to Use Copyrighted Works” (II, B).

College Procedure: Copyright Procedure (continued)

VII. COPYRIGHT INFRINGEMENT

CVTC will investigate allegations that the posting of material on any CVTC information system constitutes copyright infringement, provided that the following information is provided to the CVTC CIO, as required by the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act, 17 U.S.C. § 512:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- Identification of the copyright work claimed to have been infringed, or, if multiple copyrighted works at a single online site is covered by a single notification, a representative list of such works at that site;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit CVTC to locate the material;
- Information reasonably sufficient to permit CVTC to contact the complaining party;
- A statement that the complaining party has a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
- A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; and
- The downloading of recorded music without the authorization of the copyright owner is copyright infringement. Therefore, the use of CVTC information systems to download or upload commercially recorded music on peer-to-peer file sharing networks is prohibited.

CVTC will take appropriate measures, consistent with the CVTC policies on the use of CVTC information systems and the Digital Millennium Copyright Act, in response to allegations that infringing material has been posted on or transmitted with CVTC information systems. These measures may include the removal of infringing material and, in the case of repeated acts of infringement, the termination of the user's CVTC information systems account.

College Procedure: Copyright Procedure (continued)

VIII. COPYING SOFTWARE

CVTC maintains an inventory of all CVTC-purchased microcomputer software products that are protected by license agreements and copyright laws. CVTC does not allow the making of illegal copies of software or their use on any CVTC-owned computers.

It is a federal offense to reproduce software without authorization. Criminal penalties may include fines and imprisonment. Civil action by the owners of copyright could result in large fines.

Policy/Procedure Ref.: Copyright Policy
Internet Use – Employee Policy
E-Mail – Employee Procedure
Department Web Sites Policy
Department Web Sites – Development and Maintenance Procedure

Legal Ref.: Copyright Law, Title 17 USC

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