Copyright Infringement Policy

The purpose of the Cerro Coso Community College Copyright Compliance Policy is to provide a summary of U.S. copyright law as it relates to the use of text-based copyright-protected works 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 administrators, faculty, students, employees, and others with a standard approach for addressing complex copyright issues. This policy covers classroom issues such as photocopying, showing videos or films, and use of website information. 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? (Obtained from http://www.copyright.gov/circs/circ1.pdf)

Copyright is a form of protection provided by the laws of the United States (title 17, U.S. Code) to the authors of “original works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works.

Additionally, the Copyright and Fair Use policy adopted by Minnesota School of Business/Globe College includes policies included in the TEACH Act. Signed by President Bush on November 2, 2002, the Technology, Education, and Copyright Harmonization (TEACH) Act is the product of discussion and negotiation among academic institutions, publishers, library organizations and Congress. It offers many improvements over previous regulations, specifically sections 110(2) and 112(f) of the U.S. Copyright Act. The TEACH Act seeks to balance the perspectives of both copyright owners and content users, and provide guidance for today’s academic institutions. A copy of the TEACH Act can be obtained at the following web site: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_bills&docid=f:s487es.txt.pdf

What works are protected by copyright law? (Obtained from http://www.copyright.gov/circs/circ1.pdf)

Copyright protects "original works of authorship" that are fixed in a tangible form of expression. The fixation need not be directly perceptible so long as it may be communicated with the aid of a machine or device. Copyrightable works include the following categories:

1. literary works;
2. musical works, including any accompanying words
3. dramatic works, including any accompanying music
4. pantomimes and choreographic works
5. pictorial, graphic, and sculptural works
6. motion pictures and other audiovisual works
7. sound recordings
8. architectural works

These categories should be viewed broadly. For example, computer programs and most "compilations" may be registered as "literary works"; maps and architectural plans may be registered as "pictorial, graphic, and sculptural works."
What is not covered by copyright law? (Obtained from http://www.copyright.gov/circs/circ1.pdf)

Several categories of material are generally not eligible for federal copyright protection. These include among others:

- Works that have **not** been fixed in a tangible form of expression (for example, choreographic works that have not been notated or recorded, or improvisational speeches or performances that have not been written or recorded)
- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration
- Works consisting **entirely** of information that is common property and containing no original authorship (for example: standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources)

**Policies for Instructors**

Instructors are expected to follow the copyright policy as indicated below.

Fair use of copyrighted work is defined in the Copyright Act of 1976 (17 USC 107): 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 non-profit 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.

If the following three criteria are observed, the instructor may:

- Make a single copy for research or class preparation of a chapter of a book, a short story, short essay or short poem, or a chart, graph, diagram, drawing, cartoon or picture from a book periodical or newspaper.
- Make multiple copies, not to exceed one per student in the course, for classroom use or discussion, within the following limits:
  - (Spontaneity)
    - the teacher decides to make the copies 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 effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.
  - (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 'i' and 'ii' 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 works in poetry, prose 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 'ii' 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.
  - (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 other periodicals.

The instructor may not:

- Make copies to create or substitute for anthologies or other collective works (course packs)
- Make copies to substitute for the purchase of books, publishers’ reprints, or periodicals;
- Make copies from consumable materials such as workbooks, exercises, standardized tests or test booklets;
- Make copies at the direction of higher authority;
- Make repeated copies of the same item from term to term.
- Charge a student beyond the actual cost of the photocopying


The purpose of the following guidelines is to state the minimum and not the maximum standards of educational fair use under Section 107 of HR 2223. The parties agree that the conditions determining the extent of permissible copying for educational purposes may change in the future; that certain types of copying permitted under these guidelines may not be permissible in the future, and conversely that in the future other types of copying not permitted under these guidelines may be permissible under revised guidelines.

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 and which are stated in Section 107 of the Copyright Revision Bill. There may be instances in which copying which does not fall within the guidelines stated below may nonetheless be permitted under the criteria of fair use.

A. Permissible Uses

1. Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.
2. For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not compromise a part of the whole which would constitute a performance unit such as a selection, movement or aria, but in no case more than 10% of the whole work. The number of copies shall not exceed one copy per pupil.
3. Printed copies which have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, altered or lyrics added if none exist.
4. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.
5. A single copy of a sound recording (such as a tape, disc or cassette) or copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.)

B. Prohibitions

1. Copying to create or replace or substitute for anthologies, compilations or collective works.
2. Copying of or from works intended to be ‘consumable’ in the course of study or of teaching such as workbooks, exercises, standardized tests and answer sheets and like material.
3. Copying for the purpose of performance, except as in A(1) above.
4. Copying for the purpose of substituting for the purchase of music, except as in A(1) and A(2) above.
5. Copying without inclusion of the copyright notice which appears on the printed copy.
Policies for off-air taping of audiovisual works and/or the taping of TV programs

The following excerpts are reprinted from the House Report on piracy and counterfeiting amendments (H.R. 97-495, pages 8-9).

1. The guidelines were developed to apply only to off-air recording by non-profit educational institutions. However, due to being an educational institution, Minnesota School of Business/Globe College has adopted these guidelines as part of its policy.

2. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable transmission) and retained by a non-profit educational institution for a period not to exceed the first forty-five (45) consecutive calendar days after date of recording. Upon conclusion of such retention period, all off-air recordings must be erased or destroyed immediately. “Broadcast programs” are television programs transmitted by television stations for reception by the general public without charge.

3. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary, in classrooms and similar places devoted to instruction within a single building, cluster, or campus, as well as in the homes of students receiving formalized home instruction, during the first ten (10) consecutive school days in the forty-five (45) day calendar day retention period. “School days” are school session days—not counting weekends, holidays, vacations, examination periods, or other scheduled interruptions—within the forty-five (45) calendar day retention period.

4. Off-air recordings may be made only at the request of, and used by, individual teachers, and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.

5. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording.

6. After the first ten (10) consecutive school days, off-air recording may be used up to the end of the forty-five (45) calendar day retention period only for teacher evaluation purposes, i.e., to determine whether or not to include the broadcast program in the teaching curriculum, and may not be used in the recording institution for student exhibition or any other non-evaluation purpose without authorization.

7. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

8. All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.

9. Educational institutions are expected to establish appropriate control procedures to maintain the integrity of these guidelines. Deans of Faculty at each campus will monitor these guidelines for their specific campus.

Policies for Showing Videos or Films in the Classroom

Additional information can be found in the TEACH Act, Section 110(1) and Section 110(2)

An instructor may show or perform any work related to the curriculum, regardless of the medium, face-to-face in the classroom including videos or films. An instructor may not copy a video or film for a student.

It is not permitted to make an electronic copy of a video or film available to students, including in the distance education environment, as it would have a negative effect on the market for the film. If the video or film is available on a website or if the film or video is available to the public, the student may be directed to the location in which they may find the film.

Minnesota School of Business/Globe College may not show a video or film in a place that is open to the public. It must be used for educational purposes only.

Policies for Using Information from Web Sites in Course Packs

Materials on the web have the same copyright protection as other materials. Copyright infringement occurs when the material is copied or downloaded from the site. The same guidelines with respect to fair use of other materials apply to those materials on the internet. If instructors want to print material from a web site and use the material from quarter to quarter, permission must be obtained.
An alternative to printing information from a web site and handing it out to students would be to refer the students directly to the source.

**Summary of Civil and Criminal Penalties for Violation of Federal Copyright Laws**

(Obtained from [http://www.meredithmanor.edu/about/consumerinfo/ref16.asp](http://www.meredithmanor.edu/about/consumerinfo/ref16.asp))

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement.

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or "statutory" damages affixed at not less than $750 and not more than $30,000 per work infringed. For "willful" infringement, a court may award up to $150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys' fees. For details, see Title 17, United States Code, Sections 504, 505.

Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to $250,000 per offense.

For more information, please see the Web site of the U.S. Copyright Office at [www.copyright.gov](http://www.copyright.gov), especially their FAQ's at [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq).

Individuals may be subject to Federal criminal offenses for copyright law violations.

**Legal Alternatives**

A list of sites for legal downloading can be found at [http://www.educause.edu/legalcontent](http://www.educause.edu/legalcontent)

**Computer Use Policy**

The Cerro Coso College Learning Resource Center computers are for academic research through the LRC web page only.

Access to computer resources imposes responsibilities and obligations on the part of users. Users, therefore, are expected to demonstrate respect for others' rights including the right to access information freely and the right to work in a secure, harassment-free environment.

The following policy statements, as well as all local, state, and federal laws relating to copyrights, security, first amendment rights, and sexual harassment statutes shall apply to students, employees, and other users of Kern Community College District's computing facilities.

All users are expected to understand and follow College/District guidelines for use of computer resources.

Access to computers will be based on the following priorities:

- Students, faculty, and staff attending scheduled courses or short-term classes and/or training programs.
- Students working on class assignments or research related to class assignments.
- All others on a first come first served basis.
Inappropriate and unauthorized computer uses, subject to disciplinary action as listed below, include the following:

- Cheating, plagiarizing, furnishing false information, or performing acts of academic dishonesty.
- Disrupting the normal operation of the Colleges and/or District.
- Monopolizing resources to create unnecessary traffic, broadcasting inappropriate electronic mail and messages; transmitting electronic chain letters or other requests for money; distributing media known to contain computer viruses.
- Copying, distributing, either free or for monetary gain, copyrighted software or electronic information without paying the specified fee.
- Unauthorized sharing and/or attempting to access computer accounts, passwords, and codes of other users.
- Unauthorized commercial use of College or District computer resources for individual or private gain.
- Inappropriately transmitting, receiving, or copying obscene or abusive materials.
- Accessing or attempting to access student or employee information for any purpose not specifically job related.
- Unauthorized use of College or District resources to play games or participate in multi-user interactive entertainment.
- Unauthorized storing or installing of personal software on College or District computers.

Offenders will be subject to any and all of the following:

- Suspension or Loss of computing and networking access
- College disciplinary actions
- Civil proceedings
- Criminal prosecution

Revised on: 06/13/11