

**BRISTOL COMMUNITY COLLEGE**



The College has also designated an "Agent to Receive Notification of Claimed Copyright Infringement." Anyone who believes that any faculty, staff, or student of the College has infringed on their rights as a copyright owner should contact the Chief Academic Officer, with the following information:

address, phone and fax numbers;

With regard to Distance Learning, the College will apply measures to protect against unauthorized access (e.g. limiting transmission to students enrolled in a particular course) and requires that only lawfully acquired copies of copyrighted works are used.

### **USE OF INTELLECTUAL PROPERTY: COPYRIGHT**

Much of the existing works, information, or materials used at the College, whether written or electronic are copyright protected. Copyright protection vests automatically in original works of authorship that are fixed in a tangible medium of expression which are not in the Public Domain. Copyrighted materials can include literary, musical and dramatic works as well as computer software teaching materials, multimedia works, proposals and research reports, books, articles, study guides, syllabi, workbooks, manuals, bibliographies, instructional packages, tests, video or audio records, films, slides, transparencies, charts, graphic materials, photographic or similar visual materials, film strips, multi-media materials, three dimensional materials, exhibits, software, and databases.

Works in the Public Domain include those created by the federal or a state government and copyrighted works where the copyright has expired. Public accessibility to the works such as via the Internet does not mean that the works are in the Public Domain. To the contrary, much of the materials on the Internet are copyright protected. Since copyright laws protect many materials, and it is difficult to determine whether a work is in the Public Domain, Covered Individuals should assume that the materials they seek to use, for example, in connection with course preparation, course presentation or course materials, are copyrighted works.

Please note that if anyone who is not the copyright owner reproduces, distributes, performs, displays, and/or makes derivative works from copyrighted materials it is an

damages to the copyright owner as well as criminal penalties. Accordingly, any time a Covered Individual uses a copyrighted work, either in whole or in part, proper authorization must be obtained from the copyright owner (which can include written consent as well as the payment of a fee) unless one of the exceptions listed below applies. Additionally, Covered Individuals should clearly and prominently acknowledge the copyright owner on, or next to, the copyrighted work along with the following notice:

*This material is protected by federal copyright law (Title 17 of the U.S. Code) and thus, copying of the material is prohibited by federal law.*

## **OBTAINING AUTHORIZATION TO USE A COPYRIGHTED WORK**

Obtaining authorization from a copyright owner to use a copyrighted work is usually not difficult but in some cases, may involve payment of a fee. The Association of American Publishers suggests that the following information be sent to the copyright owner (and/or to the publisher), with a self-addressed stamped envelope, to expedite the approval process:

Title, author and/or editor, and edition of materials to be duplicated.

Exact material to be used, giving amount, page numbers, reels, cassettes, chapters and, if possible, a photocopy of the material.

Number of copies to be made.

Use to be made of duplicated materials (including time period or duration if copying on an on-going basis is desired).

Form of distribution (classroom, newsletter, etc.).

Whether or not the material is to be sold.

Type of reprint (photocopy, offset, typeset, reproduced [media]).

It is advisable to allow sufficient lead time to obtain authorization prior to use. In some instances the copyright holder may assess a fee for permission, which may be passed on to students who receive copies of the copyrighted material.

Depending on the type of copyrighted material (e.g. poetry, music), permission may also be obtained (for a fee) by contacting organizations such as the Copyright Clearance Center, Films for the Humanities & Sciences, Harry Fox Agency, Motion Picture Licensing Corporation, Recording Industry Association of America, and The American Society of Composers, Authors and Publishers.

## **WHEN AUTHORIZATION IS NOT REQUIRED**

Covered Individuals do not need to obtain prior written permission from the copyright owner to use copyrighted materials if use falls under one of the exemptions listed below. Additional guidance and resources are included in the appendices to this policy.

### *Fair Use Exemption*

Copyright law does allow limited copying, distribution, and display of copyrighted works without

what qualifies as fair use. It provides four interrelated factors which must be considered every time a Covered Individual seeks to use copyrighted material to evaluate whether the use (e.g. copying, distribution) falls within the limited exemption of fair use. The four factors that must be considered on a case-by-case basis are as follows:

The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes.

Nonprofit educational uses are more likely to be considered fair while commercial uses will likely be an infringement. Duplicating and distributing small portions of copyrighted materials for specific nonprofit educational purposes has been considered to be fair use.

The nature of the copyrighted work.

For example, use of published non-fiction (e.g. encyclopedias) is more likely to be considered fair while use of unpublished fiction will likely be an infringement. Commercial audiovisual works and consumable workbook materials are less likely to be considered fair than use of many printed materials.

The amount and importance of the portion of the copyrighted work used.

Use of extracts which are small relative to the whole work and which do not substitute for the whole work are more likely to be considered fair.

The economic effect of the use on the copyright owner

If copying or distributing the work does not reduce sales of the work then the use is more likely to be considered fair.

concept of

distribution of copyrighted work for educational or any other purpose without permission. The permission of the copyright holder should be obtained.

#### *Special Library Exemption*

Copyright laws allow libraries to exercise special rights in addition to fair use such as archiving lost, stolen, damaged or deteriorating works, making copies for library patrons, and, in some cases, making copies for library loan).

#### *Special Classroom Exemption*

Copyright laws allow faculty and instructors to use copyrighted materials in the classroom, including distance learning environments, without obtaining permission, for example, in performances of non-dramatic literary and musical works or displays of print materials over the internet as part of a class session in a distance learning course. This special classroom exemption only applies if:

The display or performance is done by, at the direction of, or under the actual supervision of an instructor, as an integral part of a class session, an integral part of a class session as part of systematic mediated instructional activities and is directly related and of material assistance to the teaching content.

Transmission is made solely for and reception limited to (as technologically feasible) students enrolled in the course, and technological measures are in place to limit access to enrolled students and reasonably prevent download and further distribution of materials.

There is no interference with copyright holder's technological measures that prevent such retention and dissemination

The special classroom exemptions do not cover:

Digital educational works - works produced or marketed primarily for performance/display as part of mediated instructional activities transmitted via digital networks

Unlawful copies - copies which are known (or reasonably should have been known) to be unlawfully made or acquired)

Please note that copyright law allows the conversion of print or analog material into digital formats if no digital version is available or an available digital version is protected by technological measures.

## **GUIDELINES FOR USE OF COPYRIGHTED WORKS AT THE COLLEGE**

Below are some illustrations of typical educational uses of copyrighted works at the

these guidelines are followed as use will likely fall into one of the exemptions listed above. Even if a determination is made that an exception applies and permission of the copyright owner is not required for use of copyrighted material, Covered Individuals still have limitations on use as outlined in this Policy and below. Additionally, Covered Individuals should clearly and prominently acknowledge the copyright owner on, or next to, the copyrighted work along with the following notice:

*Title 17 of the U.S. Code and thus, copying of the material is prohibited by federal copyright*

Please also refer to the appendices of this policy for additional guidance and copyright resources, including, but not limited to other examples where educational uses may be permissible without permission from the copyright owner. These resources may be particularly helpful where Covered Users seek to use copyrighted works in newer forms of technology (e.g. podcasting, PowerPoint). Please note however that this policy

and federal copyright law applies to all uses of copyrighted materials, irrespective of technology. Non-digital content that is protected by copyright is also protected in digital form. Additional guidance and resources are included in the appendices to this policy





The use of a course management system (i.e. BlackBoard, Moodle, Angel) offers the capability to provide controlled access to electronic forms of class material. The  
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with vendors. In many cases the license agreements with the vendors or publishers of these materials specifically address whether or not content may be downloaded and reposted to an electronic reserves system. Since the answer to this question is uneven and  
libraries will link to any database or  
eJournal content, rather than downloading the document and uploading it for online access (i.e. BlackBoard, Moodle, Angel).

### Digitizing and Using Copyrighted Works in Multimedia Materials for Educational Purposes

Covered Individuals may seek to incorporate copyrighted works into multimedia materials and display and perform a multimedia work in connection with, or the creation of, class assignments, curriculum materials, remote instruction, examinations, student portfolios, or professional symposia. Covered Individuals may incorporate copyrighted works into a multimedia work if the amount of material from the copyrighted work

small portion of the Copyrighted materials may be used for a limited time, and with limited access along with the notices and acknowledgements listed above.

### Music

A faculty or staff member may copy music for academic purposes, other than performances, limited as follows: 1) excerpts of sheet music, such as performable units (movements, sections, arias) may be copied only if out of print; 2) student performances and 3)

sound records may be copied once for classroom or reserve room use. Please note that sheet music may be copied in its entirety only for an emergency when purchased copies are not available for an imminent performance provided that purchased replacement copies are substituted in due course. Additionally, the copyright notices and acknowledgements outlined above must be included. There are also sources of free music such as the Choral Public Domain Library. [http://www.cpd.org/wiki/index.php/Main\\_Page](http://www.cpd.org/wiki/index.php/Main_Page).

### Public Performance

Copyright law governs how copyrighted materials used for a public performance, such as movies, may be used. Neither the rental nor the purchase of a video carries with it the right to show the video outside the home. In some instances no license is required to view a video, such as inside the home by family or social acquaintances and in certain narrowly defined face-to-face teaching activities. Taverns, restaurants, private clubs, prisons, lodges, factories, summer camps, public libraries, day-care facilities, parks and recreation departments, churches and non classroom use at schools and universities are all examples of situations where a public performance license must be obtained. This legal requirement applies regardless of whether an admission fee is charged, whether the institution or organization is commercial or non-profit, or whether a federal or state agency is involved.

Copyright law allows faculty members and instructors to share audio-visual work (e.g. video, VHS tape, laserdisc, DVD movie, 35 mm slide, filmstrip, or 16 mm movie), works with students in face-to-face teaching situations only. Even programs purchased or rented with the caveat "home use only," may be used in face-to-face teaching activities. Such programs may not be used outside of the classroom, for example viewing at a student club meeting, without licensing. Audio-visual works may not be transmitted to other colleges or locations without permission of the copyright holder. Accordingly, unless permission is received, distance education is an unlikely venue for the performance of audio-visual works.

Transmission of an audio-visual work may be permissible over closed circuit television to classrooms located within the same building. Besides use in classrooms, students, faculty or staff at workstations or in small group rooms such as those available in the library may view audio-visual works that are owned by the College. In similar situations, the performance of non-dramatic literary or musical works is permitted, if the performance or display is a regular part of systematic instructional activities, if it is directly related to

teaching content of transmission, if the setting is normally devoted to instructional activities, or if it is sited to accommodate persons with disabilities.

Assuming the purpose is curricular and the setting is face-to-face, two additional criteria apply: (1) the performance of the audiovisual work must meet the instructional objective; and (2) the audio-visual work must be a "lawfully made" copy. Any other type of performance or display of an audio-visual work is potentially a copyright infringement.

#### Recording College Events

Permission to record presentations by registered students, faculty, and staff is assumed if the recording is to be used for archival or classroom use only. Written permission of the presenter or sponsor is required for presentations made by any other individual or group regardless of the recording's purpose. One archival copy of non-classroom events using copyrighted materials may be produced if the presenter has obtained clearance from the copyright holder. Non-archival copies of presentations may only be produced if written permission allowing the duplication of the material has been obtained in advance from all copyright holders. For example, it may be necessary to obtain permission from the author, publisher, and director of a play.

#### Off-Air Recording of Broadcast Programming for Educational Purposes

A broadcast program (including cable program) may be recorded off-air and retained for 45 calendar days after date of recording. Off-air recordings may be used once by individual faculty member or instructors in the course of relevant teaching activities and repeated once only when instructional reinforcement is necessary in classrooms and similar places devoted to instruction during the first 10 school days in the 45-day retention period. Off-air recordings may be made only at the request of and use by individual faculty and instructors and may not be regularly recorded.

## OWNERSHIP OF INTELLECTUAL PROPERTY

The author or creator of intellectual property is usually the owner of that intellectual property unless \_\_\_\_\_ made for hire. Copyright law (Section 101 of Title 17 of the U.S. Code) defines a work made for hire

- (1) a work prepared by an employee within the scope of his or her employment; or
- (2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work,<sup>4</sup> as a compilation, as an instructional text,<sup>5</sup> as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument that the work shall be considered a work made for hire.

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still own the intellectual property if it is created pursuant to a contract, collective bargaining agreement, or assignment of copyright.

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adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, ap

5