

OTHER POLICIES

Intellectual Property Policy

The College strives to create an environment that encourages the development and dissemination of original materials by faculty and staff, both for personal and professional use, and for the benefit of the College community. It is the general intent of this policy that the College and employees share joint rights to continued use without compensation of ordinary College-related materials created with College resources, and that materials created by individuals outside of College time and without College resources belong to the creator.

Policy Definitions

College Work refers to any research, teaching, scholarship, or other activity created by employees within the scope of their employment or with substantial use of the College's physical equipment, financial resources, or staff support.

Traditional Works of Scholarship are works which reflect research and/or creativity which are considered evidence of professional advancement or accomplishment, and are designed primarily to provide information to the user. These include but are not limited to scholarly publications, dissertations, journal articles, treatises, works of art and software.

Instructional Materials are works whose primary use is for the instruction of students.

Intellectual Property refers to College Work that may be protected by copyrights, trade secrets protections, trademarks, and/or patents, irrespective of whether formal protection is sought. Intellectual Property does not include Traditional Works of Scholarship or Instructional Materials.

Expectations

1. If Intellectual Property is created, the creator is required to make prompt disclosure to the area Vice President or Provost in order to provide the College with sufficient information to permit the College to evaluate the work and, if appropriate, take steps to protect the College's property rights.
2. If the creator of any Intellectual Property fails to disclose efforts to develop Intellectual Property, it is presumed that the College has ownership of any Intellectual Property created.
3. The College may use Instructional Materials that are developed or produced by an employee for non-commercial purposes on a royalty-free basis.

4. The College owns and is entitled to any financial rewards of any Intellectual Property unless an agreement is made in advance between the creator and the College.
5. The use of the College name or College marks within materials that are produced for publication or used for promotional purposes are subject to prior approval by the College President.
6. It is the creator's responsibility to obtain appropriate releases/permissions to use Intellectual Property owned by others.
7. In keeping with the College's Electronic Communication Policy, all material stored on College equipment belongs to the College, unless otherwise agreed to by the College. Materials created beyond the scope of normal job expectations should be stored off campus or on employee-owned removable external storage devices.

Carroll Community College - Copyright Compliance Statement

Carroll Community College recognizes and supports the full enforcement of copyright laws for the protection of intellectual property rights. All College faculty, staff, and students are expected to comply with federal laws regarding the use of copyright protected materials. As an institution of higher learning, Carroll Community College supports the fair use exemption, whereby copyrighted materials may be legally used and reproduced for the purposes of criticism, commentary, teaching, scholarship, and research as noted in the federal copyright law (17 U.S.C. 107).

What is Copyright?

Copyright grants its holder the sole legal right to copy works of original expression, such as literary works, movies, musical works, sound recordings, paintings, computer programs, or industrial designs, for a defined period of time. Copyright only pertains to ideas that are in a tangible form. An idea for a movie may not be copyright protected but a screenplay is copyright protected.

What is Fair Use?

Title 17, Section 107 of the United States Code is the fair use doctrine. This doctrine provides that certain uses of copyrighted works for purposes such as "criticism, comment, news reporting, teaching, scholarship or research" are permitted without copyright permission. The points to consider in order to determine fair use are:

- Purpose and character of the use--educational use is permitted
- Factual or creative nature of the original work--facts such as statistical tables are permitted; a creative analysis of statistics is not permitted
- Amount and substantive value of the work being copied relative to the work as a whole--a general rule of thumb is that no more than 20% of an original work may be copied
- Effect of the use on the market for, or value of, the copyrighted work--materials may not be sold or copied and distributed for free.

What is Public Domain?

Materials in the public domain are free of copyright restrictions

Public domain may include information, knowledge, discoveries, and artistic creation never or no longer protected by copyright

Materials published before 1923 or published after 1923 with no copyright notice or no renewed copyright notice may be in the public domain

Seeking Permission to Use Copyrighted Works

How to obtain permission:

When a proposed use of photocopied materials requires a faculty member to request permission, communication of complete and accurate information to the copyright owner will facilitate the request. The Association of American Publishers suggests that the following information be included to expedite the process.

- Title, author and/or editor, and edition of materials to be duplicated
- Exact material to be used, giving amount, page numbers, chapters and, if possible, a photocopy of the material
- Number of copies to be made
- Use to be made of duplicated materials
- Form of distribution (classroom, newsletter, etc.)
- Whether or not the materials is to be sold
- Type of reprint (ditto, photocopy, offset, typeset)

The request should be sent, together with a self-addressed return envelope, to the permission department of the publisher in question. If the address of the publisher does not appear at the front of the material, it may be obtained from The Literary Marketplace (for books) or Ulrich's International Periodicals (for journals), both published by the R.R. Bowker Company. For purposes of proof, and to define the scope of the permission, it is important that the permission be in writing. The process of considering permission requests requires time for the publisher to check the status and ownership of rights and related matters, and to evaluate the request. It is advisable, therefore, to allow sufficient lead time. In some instances, the publisher may assess a fee for permission, which may be passed on to the students who receive copies of the photocopied material.

Sample Letter of Permission

Date

Name & address of addressee

Dear _____,

(If you contacted the owner by phone, begin the letter): This letter will confirm our recent telephone conversation. I am _____ at Carroll Community College. I would like your permission to (explain your intended use in detail) reprint or use the following _____ (article, chapter, image, film excerpt, etc.) for use in our course dealing with _____. I will be using the article during the _____ semesters for my _____ course. I will be making approximately _____ copies for student and instructional use.

(Insert full citation to the original work.)

Please indicate your approval of this permission by signing the letter where indicated below and returning it to me as soon as possible. My fax number is _____. By signing this letter, you are confirming that you own (or your company owns) the copyright to the above described material.

Thank you very much.

Sincerely,

(Your name and signature)

PERMISSION GRANTED FOR THE USE REQUESTED ABOVE:

(Type name of addressee below signature line)

(signature)

Date:

Fair Use of Printed Materials

In general, for all formats including print, use no more of the original than is required to meet your learning objectives. In some cases, the complete text of the original may be fair use if it is required to meet the learning objectives.

The following are general guidelines with regard to copying of print materials for instruction:

- Make sure that copies are made from legally purchased or licensed originals. For example, use legal copies of a book or journal owned by the Library or faculty member.
- In general, faculty may photocopy articles to hand out in class or make available on Canvas. Classroom copying cannot be used to replace texts or workbooks used in the classroom. The number of copies cannot exceed more than one copy per pupil. And a notice of copyright must be affixed to each copy.
- Articles, ebooks, and online content that are included in Library databases are licensed for educational use and distribution to students/faculty. Work with librarians to determine if instructional materials are available through a Library database. Librarians can assist with identifying the persistent link to articles which can be placed within a Canvas course site.
- Include the copyright notice appearing on the original and appropriate citations/attributions to the source on the copies.
- As a rough guideline, if faculty need to use lengthy works for educational purposes limit the materials copied to single articles or chapters from longer works or smaller selections from shorter works.
- Limit distribution to enrolled students in your class.
- In order to include copyrighted materials in a course pack, faculty need to seek permission to use the materials from the copyright owner.
- Student or faculty copying of materials for individual learning and research is considered to be fair use.
- If the same photocopied materials are to be used every semester, permission from the copyright owner should be sought.
- If possible, use open-access materials such as those identified with Creative Commons licensing.
- Photocopying in order to substitute for an anthology is to be avoided.
- Faculty may reproduce poems fully or partially and make them available to students for instructional use as photocopies or through Canvas. If it aligns with learning objectives, limit copying of long poems to the portions actually taught unless it is the full poem being taught. Selections of poems should not substantially duplicate those of existing, commercially available anthologies or textbooks.

Reproduction guidelines

The following guidelines have been widely accepted by the educational community. However, they are not codified laws and there may be instances in which copying in an educational setting does not fall within the guidelines below but is nonetheless permitted under fair use. "Faculty members needing to exceed these limits for college education should not feel hampered by these guidelines, although they should attempt "selective and sparing" use of copyrighted materials" (Russell 138). In particular, the notion of spontaneity and reuse over multiple semesters has been called into question. The guidelines do not cover academic coursepacks. To use copyrighted material in academic coursepacks, permission must be obtained from the copyright holder or a licensing agent.

Guidelines:

SINGLE COPYING FOR TEACHERS:

A single copy of the following items may be made for a teacher's scholarly research or use in teaching or preparation to teach a class:

- A chapter or chapters from a book (but not the majority of or the whole book).
- An article or articles from a periodical or newspaper but not the entire periodical or multiple copies from the same periodical over time.
- A short story, short essay, or short poem, whether or not from a collective work.
- A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.

MULTIPLE COPIES FOR CLASSROOM USE:

- Multiple copies (not to exceed more than one copy per pupil in a course) may be made by or for a teacher giving a course for classroom use or discussion, provided that:
- The copying meets the tests of brevity and spontaneity as defined below; and
- Meets the cumulative effect test as defined below, and
- Each copy includes a notice of copyright.

Definitions:

Brevity:

Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or (b) an excerpt of not more than 250 words from a longer poem.

Prose: (a) Either a complete article, story, or essay of less than 2,500 words or (b) an excerpt from any prose work provided the excerpt is not more than 1,000 words or 10% of the work, whichever is less, and 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 an unfinished prose paragraph.)

Illustration: One chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.

"Special" works: Certain works in poetry, prose or "poetic prose" which often combine language with illustrations and are intended for children and/or a more general audience fall short of 2,500 words in length. Such "special works" may not be reproduced in their entirety. However, an excerpt comprising not more than two of the published pages and not more than 10% of the words found in the text may be reproduced.

Spontaneity:

The copying is 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.

Cumulative Effect:

The copying of the material is for only one course in the school in which the copies are made.

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.

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, newspapers, and current news sections of other periodicals.)

Prohibitions:

Copying shall not be used to create, replace, or substitute for anthologies, compilations, or collective works. Such replacement or substitution may occur whether copies of various works or excerpts there from are accumulated or are reproduced and used separately.

There shall be no copying of or from works intended to be "consumable" in the course of study or teaching – such as workbooks, exercises, standardized tests, test booklets and answer sheets.

Copying shall not:

- Substitute for the purchase of books, publisher's reprints, or periodicals;
- Be directed by higher authority,
- Be repeated with respect to the same item by the same teacher from term to term.
- No charge shall be made to the student beyond the actual cost of the photocopying.

From: Russell, Carrie. Complete Copyright for K-12 Librarians and Educators. Chicago: American Library Association, 2012. Print.

Fair Use of Film/Video Material:

In general, for all formats including video, use no more of the original than is required to meet your learning objectives. In some cases, use of the complete film may be considered fair use if it is required to meet the learning objectives.

The following are general guidelines with regard to use of copyrighted video/film materials for instruction:

- Faculty may show legal copies of films owned or licensed by the Library, faculty member, or College in the classroom without permission or restrictions if viewing occurs during face-to-face instruction.
- If the use of the film is transformative (as it often is for education, research, or commentary) and the amount used is appropriate to achieve the learning objectives, it is fair use to digitize the film and provide access via Canvas username and password authentication to students enrolled in a given course.
- Work with Librarians to determine if a licensed streamed version of a film is currently available or available for purchase. Librarians can assist with identifying the persistent link for streamed media already in the Library's collection.
- Digitized copies must be made from legally purchased or licensed originals. For example, legal copies of films owned by the Library or faculty member. Complete a video request form to have Library owned video streamed from your Canvas course site.
- Note that learning objective justification must be included on requests for digitizing films. Faculty need to identify specifically how the film or portions of the film will be used to achieve learning objectives.
- Note that films appearing on YouTube, Vimeo, and other video websites may be unauthorized and, therefore, may not be reliable or legal.
- If the full film is not required, limit the copying of films to just those scenes needed to achieve the learning objectives. Media Office staff can assist in editing films.
- Limit access to enrolled students/faculty in the class as authenticated by a Canvas username and password.
- If possible, use open-access materials such as those identified with Creative Commons licensing.
- Terminate access at the end of each semester.

Fair Use of Music

In general, for all formats including music, use no more of the original than is required to meet your learning objectives. In some cases, use of the complete musical recordings, scores, or other publications may be considered fair use if it is required to meet the learning objectives.

As with all fair use determinations, the question of transformative use is key. In the case of music education, the original purpose of a song or composition is typically entertainment or artistic creativity; the course related transformative purpose in using the song/composition is teaching/learning, scholarship, or commentary (Best Practices 2010).

Faculty should always balance the amount copied from the original work with the amount needed to achieve the learning objectives.

General guidelines with regard to use of copyrighted musical materials for instruction:

- For musical scores, relatively brief excerpts may be used without permission (roughly 10% of the whole work). If using the work in its entirety is necessary to achieve one's learning objectives, then this may constitute fair use. Faculty should carefully consider whether every part of the reproduction of the original is necessary.
- Song lyrics are often central to research, scholarship, or commentary and, therefore, may be copied under the fair use provision for educational use.
Faculty should carefully consider the amount of original to be used. If the entire lyric is necessary to achieve one's learning objectives, then this may constitute fair use.
- Brief excerpts of recordings of copyrighted music may be used without permission for educational purposes. Original recordings must be legal versions (CD, streamed) owned or licensed by the Library or faculty.
- Faculty may incorporate lawfully acquired copyrighted works (including music) when producing their own educational multimedia programs for their own teaching tools in support of learning objectives.
- Work with Librarians to determine if licensed streamed music is currently available or available for purchase. Librarians can assist with identifying music resources in the collection.
- Note that music appearing on the Internet or peer to peer networks may be unauthorized and, therefore, may not be reliable or legal.
- Limit access to enrolled students/faculty in the class as authenticated by a Canvas username and password.
- If possible, use open-access materials such as those identified with Creative Commons licensing.
- Terminate access at the end of each semester.

A fair use determination is based on an analysis of the four factors outlined in Section 107 of the Copyright Act:

- Nature of the use
- Nature of the work used
- Quantity of the work used
- Effect on the market of the work used.

In order to make this analysis, one must balance the transformative nature of the use against the effects on the rights of the work's owner.

Codes of Best Practices in Fair Use have been developed by various professional associations to assist with this process. In deciding fair use court cases, judges look to whether a user has acted reasonably and "in good faith in light of standards of accepted practice in his or her particular field." (Code 2012).

Carroll Community College recognizes the various codes of best practices as reasonable guides in determining fair use. The guidelines appearing on these pages, therefore, reflect the recommendations appearing in the following Codes of Best Practices:

Code of Best Practices in Fair Use for Academic and Research Libraries
(Association of Research Libraries)

Code of Best Practices in Fair Use for Media Literacy Education (Center for Social Media)

Code of Best Practices in Fair Use for OpenCourseWare (Center for Social Media)

Code of Best Practices in Fair Use for Online Video (Center for Social Media)

Code of Best Practices in Fair Use for Poetry (Poetry Foundation)

Best Practices in the Fair Use of Copyrighted Materials in Music Scholarship
(American Musicological Society)

(Association of Research Libraries. Code of Best Practices in Fair Use for Academic and Research Libraries. (2012). Chicago: ACRL. Print.)