

**TRI-COUNTY TECHNICAL COLLEGE
PROCEDURE**

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TITLE: Reproduction of Copyrighted Materials

**RELATED POLICIES
AND PROCEDURES:** 1-8-1010, Reproduction of Copyrighted Print and Non-print
Materials Policy

4-4-1031, Acceptable Use of Information Technology
Resources Policy

**ADMINISTRATIVE
RESPONSIBILITY:** Chief Academic Officer

July 1, 2004

July 12, 2021

July 12, 2021

**DATE APPROVED BY
PRESIDENT**

DATE LAST REVIEW

DATE LAST REVISION

Tri-County Technical College recognizes the need for employees and students to have reasonable access to information for educational, scholarly, and research use as described in section 107 of United States Copyright law and encourages the full exercise of those rights under the Fair Use guidelines. This procedure is a guideline to apply only when permission to use copyrighted materials has not been obtained from the copyright owner.

Obtaining prior permission is always preferred and, when such permission has been obtained, any use specifically granted by the copyright owner is permitted.

The College recognizes and supports the rights of authors or producers of materials as defined in Public Law 94-553, Section 101, Title 17 of the United States Code entitled "Copyrights." Therefore, it is incumbent that all employees and students make informed decisions related to the use of copyright materials, print and non-print, to fully comply with copyright law.

Copyrightable Materials are materials fixed in any tangible medium including electronic and include, but are not limited to, the following examples:

a. books, Journal articles, reports, texts, glossaries, bibliographies, study-guides,

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laboratory manuals, syllabi, tests and proposals;

b. lectures, musical or dramatic compositions, and unpublished scripts;

c. photographs, films, film strips, charts, transparencies, and other visual aids;

d. video and audio tapes and cassettes;

e. live video and audio broadcasts;

f. sound recordings; g. programmed instructional materials, (including Web-based courses or materials);

h. computer programs (software);

i. choreographic work and pantomimes;

j. graphic and sculpture works; works of art;

k. drawings and plastic works of a scientific or technical character;

l. architectural plans and structures; and

m. dress and fabric designs.

In the absence of permission from the copyright owner, faculty and students, in the context of their employment or curriculum study, should follow the guidelines below for the medium and context specified.

Employee and Student Photocopying

The following guidelines for classroom copying may be considered the minimum standards of educational fair use under USC Title 17, Section 107, "Limitations on exclusive rights: Fair use." Tri-County employees and students, in the context of their employment or curriculum study, should abide by the Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions With Respect to Books and Periodicals developed by the National Association of College Stores, Inc., the Association of American Publishers, Inc., and the Association of American University Presses, Inc. These guidelines apply only when permission to use copyrighted materials has not been obtained from the copyright owner. Obtaining prior permission for use is

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always preferred and, when such permission has been obtained, any use specifically granted by the copyright owner is permitted. The Fair Use Guidelines include the following:

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; (d) a chart, a graph, diagram, drawing, cartoon, or picture from a book, periodical or newspaper.
2. Multiple Copies for Classroom Use - Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion; provided that (a) the copying meets the test for brevity and spontaneity as defined below; and (b) meets the cumulative effects test as defined below; and (c) each copy includes a notice of copyright.

Brevity

1. 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.
2. Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10 percent of the work, whichever is less but, in any event, a minimum of 500 words.
3. Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
4. "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 2 above notwithstanding, such special works may not be reproduced in their entirety; however, an excerpt comprising

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not more than two of the published pages of such special work and containing not more than 10 percent of the words found in the text may be reproduced.

Spontaneity

1. The copying is at the instance and inspiration of the individual teacher, and
2. 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

1. The copying of the material is for only one course in the school in which the copies are made.
2. 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. This limitation will not apply to current news periodicals and newspapers and current news sections of other periodicals.
3. There shall not be more than nine instances of such multiple copying for one course during one class term. This limitation will not apply to current news periodicals and newspapers and current news sections of other periodicals.

In addition to the limitations expressed above, the following is also prohibited:

1. Copying will not be used to create or to replace or substitute for anthologies, compilations or collective works, even if such replacement or substitution occurs when copies of various works are accumulated or reproduced and used separately.
2. There will 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 similar consumable material.

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3. Copying will not (a) substitute for the purchase of books, publishers' reprints or periodicals, (b) be directed by higher authority, (c) be repeated with respect to the same item by the same teacher from term to term.

4. No charge will be made to the student beyond the actual cost of photocopying.

Public Photocopying Services and Facilities

Tri-County Technical College recognizes the need to provide to students and employees convenient access to photocopying machines to facilitate their access to information for educational, scholarly and research use. Such unsupervised photocopying machines will prominently bear the appropriate Display Warning of Copyright as described in section 108fl in order to exclude the College and its employees from liability for copyright infringement should it occur.

The point at which photocopying orders are received in the Printing Services Office and the order form itself will bear the Display Warning of Copyright required by Copyright Office regulations under section 108fl.

Library Photocopying

The Tri-County Technical College library will support teaching and research through photocopying, both locally and through interlibrary loan, in accordance with guidelines described in section 108, titled "Limitations on exclusive rights: Reproduction by libraries and archives."

Peer-to-Peer Sharing

Tri-County Technical College recognizes there are valid, legal uses regarding peer-to-peer sharing. Peer-to-peer sharing is defined as a network of computers designed to allow files to be shared with selected users. Copyright files include, but are not limited to, music files, articles, and electronic books. Peer-to-peer sharing is often accomplished

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using file sharing software. It is imperative that employees and students understand copyright law applies to the distribution of files using peer-to-peer networks. Unauthorized peer-to-peer distribution can result in civil and criminal prosecution and liabilities. Penalties are detailed in Title 17, United States Code, Sections 504 and 505. College penalties for unauthorized peer-to-peer sharing are found in the Acceptable Use of Information Technology Resources Policy 4-4-1031.

Fair Use Guidelines for Off-Air Taping of Broadcast Television Programs

Tri-County Technical College recognizes that it may be important that faculty and students have reasonable access to commercial broadcast television programs for classroom playback, closed-circuit display, and other instructional purposes. Faculty and students, in the context of their employment or curriculum study, should follow the Guidelines for Off-Air Taping of Broadcast Television Programs developed by the Negotiating Committee of the House Subcommittee on Courts, Civil Liberties and the Administration of Justice, as follows. These guidelines apply only to off-air recordings by non-profit educational institutions:

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable re-transmission) and retained by a non-profit educational institution for a period not to exceed 45 calendar days after the date of recording. Upon the conclusion of such a 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.
2. Off-air recordings may be used 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 home of students receiving formalized home instruction, during the first ten consecutive school days in the 45 calendar day retention period.
3. 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

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teacher, regardless of the number of times the program may be broadcast.

4. 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.
5. After the first ten consecutive school days, off-air recordings may be used up to the end of the 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.
6. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recording may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

Fair Use Guidelines for Multimedia

Tri-County Technical College faculty and students, in the context of their employment or curriculum study, should abide by the Fair Use Guidelines for Educational Multimedia developed by the Consortium of College and University Media Centers (CCUMC) Fair Access Working Committee as described below:

1. **Student use.** Students may use portions of lawfully acquired copyrighted works in their academic multimedia projects, with proper attributions and citations, and may retain these in their personal portfolios as examples of their academic work for later appropriate uses such as job and graduate school applications.
2. **Instruction in multimedia development.** Educators may use portions of lawfully acquired copyrighted works in the course of face-to-face teaching activities or similar places devoted to instruction to demonstrate to students how to create multimedia products.
3. **Face-to-face curriculum-based instruction.** Educators may use portions of lawfully acquired copyrighted works in production and in using their own

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multimedia projects for their own teaching tools in support of an identified curriculum.

4. Peer conferences. Educators may perform or display their own multimedia works created for their own curriculum-based activities, which use portions of copyrighted works lawfully acquired by the educational institution, at workshops of their peers or at conferences where educators are presenting work they created for their students.
5. Remote Instruction. Educators may use portions of lawfully acquired copyrighted works in producing their own multimedia educational programs to be used for curriculum-based instructional activities provided over an educational institution's electronic network, provided there are technological limitations on access to the network programs (such as a password or PIN) and on the total number of students enrolled.
6. Time limitations. Educators may use their own multimedia programs, containing portions of copyrighted works incorporated under fair use and developed for educational purposes, in teaching courses for a period of up to two years after completion of the finished multimedia product but use beyond that time period requires permission for each copyrighted portion incorporated in the production.
7. Portion limitation. Where portion limitations appear elsewhere in the guidelines, the following limitations apply:
 - a. Motion media. Up to 10 percent in the aggregate, or 3 minutes, of a copyrighted motion media work may be reproduced, performed and displayed as part of a multimedia program produced by an educator or student for educational purposes.
 - b. Text material. Up to 10 percent in the aggregate or 1,000 words, whichever is less, of a copyrighted work consisting of text material may be reproduced, performed and displayed for educational purposes. In the case of a poem, the entire poem of less than 250 words or 250 words or less of a larger poem may be reproduced, performed, and displayed as part of a multimedia program produced by an educator or student for educational purposes.

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- c. Music. Up to 10 percent, but no more than 30 seconds, of a copyrighted musical composition may be reproduced, performed and displayed as part of a multimedia program produced by an educator or student for educational purposes.

- d. Illustrations and photographs. The reproduction or display of photographs and illustrations is more difficult to define with regard to fair use because fair use usually precludes the use of entire works. Under these guidelines a photograph or illustration may be used in its entirety but no more than 5 images of an artist or photographer may be incorporated into any one multimedia program.

When using photographs and illustrations from a collection, not more than 10 percent, or 15 illustrations, may be used in the multimedia program.

In addition to following the guidelines above, Tri-County Technical College faculty and students should observe the following additional restrictions:

- 1. Digital materials downloaded from electronic networks should not be used in producing multimedia programs until the appropriateness of such use under Fair Use guidelines has been verified. Mere access to such materials does not convey rights to their use, and many materials available on such networks are posted without authorization of the copyright holder.

- 2. Proper attribution and credit with citations to sources must be noted for all copyrighted works included in all multimedia programs prepared by faculty or students, including those prepared under fair use.

- 3. When copyrighted materials are included in a multimedia production, the opening screen of the production, and any accompanying print material, must include a notice that certain materials are included under fair use exemption of the U.S. Copyright Law, have been used within the multimedia fair use guidelines, and are restricted from further use. The College recommends using the following verbiage:

“Some of the materials in this [document/presentation] are included under the fair use exemption of U.S. Copyright Law. Such materials are included in accordance with applicable multimedia fair use guidelines and are restricted from further use.”

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4. If there is a possibility that faculty or student multimedia programs incorporating copyrighted works under fair use could later result in either a widely disseminated or a commercial product, the developer should obtain permission for use of all copyrighted portions during the development process.
5. Faculty and students should exercise caution when making any alterations in a copyrighted work included under fair use guidelines, and must explicitly describe the nature of any changes made to the original creations when producing their own multimedia productions, in order to respect the integrity of the original creator.

Fair Use Guidelines for Open Educational Resources

The College supports the concept of open access to scholarly work and encourages faculty, students, and staff to share their intellectual property as well as seek to incorporate the work of others who have retained copyright but freely allow some kinds of use under a Creative Commons license. (creativecommons.org)

Open Access resources created under "Creative Commons" licenses are still protected as intellectual property. The Creative Commons license simply allows independent content creators to easily communicate a set of permissions or limitations attached to their work. Some content creators explicitly relinquish their rights and allow free, unfettered use of their creations. Others who attach the Creative Commons license do so to remind users that they still reserve all of the rights held by copyright holders, including attribution rules, redistribution restrictions, or fee for use. Creative Commons' licenses are self-assigned. Read and review such licenses carefully.