



Book	Siskiyou Joint Community College District Administrative Procedures
Section	Chapter 3: General Institution
Title	Use of Copyrighted Material
Code	AP 3750
Status	Active
Legal	CA Education Code Sections 32360, 67302 US Code Title 17, Copyright Act of 1976
Adopted	October 7, 2008
Last Revised	April 12, 2023
Prior Revised Dates	07/25/2012, 12/4/2019
Origin	Vice President, Academic Affairs/Vice, President Administrative Services
Office	Instruction/Technology

Employees and students shall not reproduce copyrighted materials without prior permission of the copyright owner, except as allowed by copyright law. Copyright law exceptions include, but are not limited to, the "fair use" doctrine, the TEACH Act, materials in the public domain, and exceptions for libraries. "Prior permission of the copyright owner" includes open licenses, such as a Creative Commons license. Signs are posted in campus public copy areas reminding users to adhere to copyright laws.

Employees who willfully violate copyright law do so at their own risk. If legal action is commenced by the copyright owner, the employee will be required to remunerate the District in the event of a loss resulting from litigation. Willful infringement of copyright will result in disciplinary action.

Fair Use

References:

USC 17, Copyright Act, Section 107

U.S. Copyright Office Circular 21 (2014)

The "fair use" doctrine permits limited use of copyrighted materials in certain situations, including teaching and scholarship.

1. Single Copying for Instructors

A single copy may be made of any of the following by or for an instructor 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, 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 student in a course) may be made by or for the instructor teaching the course for classroom use or discussion, provided that:

- A. The copying meets the tests of brevity and spontaneity as defined below; and
- B. Meets the cumulative effect test as defined below; and
- C. Each copy includes a notice of copyright

Definitions:

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 "i" 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 instructor; 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 other periodicals.)

3. Prohibitions

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 are reproduced and used separately.
- B. There shall be no copying of or from works intended to be "consumable" in the course of study or 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, publisher's reprints or periodicals
 - ii. be directed by higher authority

- iii. be repeated with respect to the same item by the same instructor from term to term.
D. No charge shall be made to the student beyond the actual cost of the photocopying.

Compilations

Reference:

Graphics Corp. (S.D.N.Y. 1991) 758 F.Supp. 1522; and Kinko's Basic Books, Inc. v. Princeton University Press v. Michigan Document Services, Inc. (6th Cir. 1996) F.3d 1381

Permission from the copyright owner should be obtained when using excerpts of copyrighted work to create anthologies or "course packs," even if the excerpts fall under the definitions in the "fair use" doctrine. The Bookstore assists with obtaining copyright clearance for creating anthologies and "course packs" for COS classes.

Online Courses

Reference:

The TEACH (Technology, Education and Copyright Harmonization) Act, USC 17, Copyright Act, Sections 110(2) and 112

The Teach Act provides instructors greater flexibility to use third party copyrighted works in online courses. An individual assessment will be required to determine whether a given use is protected under the Act. The following criteria are generally required:

- The online instruction is mediated by an instructor.
- The transmission of the material is limited to receipt by students enrolled in the course.
- Use of material must be directly related to the content of the course.
- Technical safeguards are used to prevent transmission for longer than the class session.
- The performance is either of a non-dramatic literary or musical work or a "reasonable and limited portion" of any other work that is comparable to that displayed in a live classroom session.
- The work is not a textbook, course pack, or other material typically purchased or acquired by students for their independent use and retention, including commercial works that are sold or licensed for the purposes of digital distance education.
- The district does not know, or have reason to know, that the copy of the work was not lawfully made or acquired.
- The district notifies students that the works may be subject to copyright protection and that they may not violate the legal rights of the copyright holder.
- The circumvention of technological measures may be allowed under some educational fair use circumstances (USC 17, Sections 1202(a)(1)). Allowable exceptions are reconsidered and published on a triennial basis in the U.S. Code of Federal Regulations (CFR).

Public Domain Works

A work is in the public domain if it is no longer under copyright protection, including failing to meet the requirements for copyright protection. Permission of the former copyright holder is not needed in order to use works in the public domain. While facts, ideas, theories, and short phrases are not copyrightable, the manner in which the creator expressed them is copyrighted.

Library Uses

Reference: USC 17, Copyright Act, Section 108

Section 108 of copyright law allows libraries to use copyrighted materials in specific ways without obtaining prior permission of the copyright owner. These exceptions permit library functions such as making copies for interlibrary loan, as a replacement for damaged, lost or stolen works, for preservation, and for scholarship. Additional conditions may apply in order for these uses to comply with copyright law. When applicable, libraries may also use exceptions provided elsewhere in copyright law, such as the "fair use" doctrine.

Obtaining Permission to Use Copyrighted Material

Employees and students shall obtain prior permission from the copyright owner before reproducing copyrighted materials unless allowed to do so by copyright law exceptions, such as fair use, or by the materials' license. The Bookstore assists with obtaining copyright clearance for creating anthologies and "course packs" for COS classes. While no prior permission is needed for public domain materials or open licensed materials, such as those with a Creative Commons license, their legal use may come with conditions or restrictions. Employees and students must adhere to any such conditions or restrictions.

DMCA Designated Agent

Reference: USC 17, Copyright Act, Section 512(c)(2)

The designated agent for the College to receive notification of claimed infringement under the Digital Millennium Copyright Act is:

Technology Services
College of the Siskiyous
800 College Avenue
Weed, CA 96094
Phone: 530-938-5222
Email: copyright@siskiyous.edu