

Copyright Policy and The TEACH Act: Guidelines for North Shore Community College

Table of Contents

Introduction.....	2
Copyright.....	3
Exceptions to the Rule.....	5
Responsibility.....	8
Fair Use.....	10
Library and Copyright	17
Requesting Permission from the Copyright Holder.....	23
Recording of Campus Events	25
Internet.....	26
Public Performance	27
Intellectual Property Rights.....	29
TEACH Act.....	31
Copyright and The TEACH Act Resources.....	33
Glossary.....	34

INTRODUCTION

It is the policy of North Shore Community College to comply with the U.S. Copyright Act of 1976 as amended, including the Digital Millennium Copyright Act of 1998. All North Shore Community College employees must observe all US laws governing copyrights. Any violation of copyright or any other law is the sole responsibility of the author. Any use of other copyrighted material must have the express written permission of the person or organization that owns the copyright. NSCC reserves the right to require proof of the written permission and to remove the material if that proof cannot be produced.

This guide is designed as an introduction to the provisions of the U.S. Copyright Law (Title 17, U.S. Code, Sect. 101, et. Seq). The guidelines in this document are for anyone at NSCC who wishes to reproduce, alter, or perform works that are protected by copyright. The purpose of this document is to provide educational information that promotes the Copyright Act to students, faculty and staff of North Shore Community College. Although every effort has been made to provide accurate information, this page is not intended to provide legal advice about copyright.

The NSCC Copyright Policy is available online at the North Shore Community College home page, the Library's home page under Library Policies, and in Pipeline under My North Shore. Hardcopies are available in the Library.

Click here for a [Copyright Tutorial](#).

COPYRIGHT

What is Copyright?

Copyright is an "intellectual" property right, defined as the exclusive right of a creator to reproduce, create derivative works from, distribute, perform, display, sell, lend or rent his/her creation(s).

Copyright Act

Copyright has its foundation in the United States Constitution, as found in Article I, Section 8, Clause 8: "The Congress shall have power to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Length of Copyright

Individual copyright holder: The length of copyright is the life of author plus 70 years; for works-made-for-hire, 95 years from their first publication, or 120 years from their creation, whichever expires first.

Public domain materials: As a general rule, anything published more than ninety-five years ago is now in the public domain and can be used freely.

For a further description of the implications of the Sonny Bono Copyright Term Extension Act go to: [US Works in the Public Domain](#).

What Does Copyright Protect?

Copyright protects "forms of expression," (e.g. poetry, prose, computer programs, artwork, written or recorded music, animations, movies and videos, java applets, web pages, architectural drawings, photographs, and more.) that are fixed in a tangible medium.

As expressed in the Copyright Act, the copyright owner has been granted six rights:

- The right to reproduce the copyrighted work.
- The right to prepare derivative works based on the original(s).
- The right to distribute copies of the work.
- The right to perform the work publicly.
- The right to display the work publicly.
- "Moral rights" apply only to original works of art, sculpture, and other works of visual arts that are produced in 200 copies or fewer. The artist has the right to have his or her name kept on the work, or to have his or her name removed if the work has been altered in a way objectionable to the artist. Artists have limited rights to prevent their works from being defaced or destroyed.

What Does Copyright Not Protect?

Copyright does not protect ideas, titles, names, short phrases, works in the public domain, most U.S. government documents, mere facts, logos and slogans (these may be protected by trademark), blank forms that collect information rather than provide it, and URLs.

How Do I Obtain a Copyright for a Work I Have Created?

You automatically own the copyright to any work you create as soon as it is fixed in a tangible medium. You are not required to take any other action to claim your copyright. However, there are certain things you can do to communicate or help secure your copyright. You can indicate your ownership by the phrase "copyright by" or the symbol © , the date, and your name. You can also register your ownership with the U.S. Copyright Office for a fee. In many instances, registration is a prerequisite for taking someone to court for copyright infringement.

What is the Difference Between Plagiarism and Copyright?

Plagiarism (representing someone else's work as your own) is an academic convention, not a legal concept.

Although it is illegal for anyone to violate any of the rights established for copyright owners, there are limitations and exceptions to these rights. Of particular interest to educators and students are four exceptions under certain conditions: works in the public domain, "Fair Use," the Digital Millennium Copyright Act (DMCA), and the "TEACH Act."

These are described in the following section.

EXCEPTIONS TO THE RULE

Public Domain

Copyrighted works may eventually fall into the "public domain" and, at that point, may be freely used without permission. In general, such works include those for which the copyright has expired or has been lost, works produced by the federal government, and works that lack sufficient originality to qualify for copyright protection (e.g., standard calendars, charts, rulers, etc.). For more specific information regarding dates at which copyright protection ends, see:

- [When Work Passes Into the Public Domain](#)
- [Center for the Public Domain](#)

Fair Use

"Fair Use" doctrine allows educators and students to use copyrighted materials without seeking prior approval to certain types of resources under certain conditions. "Intended for educational use" does not remove restrictions and the following 4 factors must be considered:

- The purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes.
- The nature of the copyrighted work.
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
- The effect of the use upon the potential market for or value of the copyrighted work.

Educators enjoy some protection from infringement lawsuits because of Section 504(c)(2) of the Copyright Act. This protection is called "the good faith fair use defense" and is based on "a reasonable, good faith determination" by educational employees that their use of copyrighted materials falls under the exceptions for "fair use".

North Shore Community College students are expected, within the context of the college's Computer Use Policy and other applicable college regulations, to act responsibly and legally by applying "Fair Use" principles to the completion of their activities and projects. The College does not assume legal responsibility for violations of applicable copyright law. Student employees are subject to all college policies relating to faculty and staff.

For more information on Fair Use see:

- [Fair Use Analysis](#)
- [Checklist for Fair Use](#)
- [Using Copyrighted Materials in Teaching, Research and Learning Environments](#)
- [Reproduction of Copyrighted Works by Educators and Librarians](#)

Digital Millennium Copyright Act (DMCA)

In 1998, Congress revised copyright provisions to meet the demands of the digital age and to offer certain protections to educational entities that offer online resources, thus qualifying as Online Service Providers (OSPs). More specifically, the DMCA:

- Prohibits the "circumvention" of "technological protection measures" (e.g., password or form of encryption) used by a copyright holder to restrict access to its material
- Prohibits the manufacture or offering of any device or service designed to defeat such protective measures
- Makes no change to the Fair Use doctrine and expressly states that valuable activities based on the Fair Use doctrine (e.g., reverse engineering, security testing, privacy protection, and encryption research) do not constitute illegal "anti-circumvention"
- Exempts any OSP or carrier of digital information (including libraries) from copyright liability because of the content of a transmission made by a user of the provider's or carrier's system (e.g., the user of a library system or college network)
- Establishes a mechanism for a provider to avoid copyright infringement liability due to the storage of infringing information on an OSP's own computer system, or the use of information location tools and hyperlinks, if the provider acts in a timely manner to remove or disable access to infringing material identified in a formal notice by the copyright holder.

TEACH Act

The 2002 Technology, Education and Copyright Harmonization (TEACH) Act updates U.S. Copyright law to extend privileges for legally using copyrighted materials with distance education technology. The TEACH Act outlines terms and conditions under which educational institutions can use copyrighted materials in an online educational format without permission from the copyright owner.

TEACH allows students and faculty at an accredited, nonprofit educational institution to transmit performances and displays of copyrighted works as part of a course if certain conditions are met. If these conditions are not or cannot be met, use of the material will have to qualify as fair use. If not, permission from the copyright holder(s) must be obtained. The provisions of the TEACH Act require certain administrative and technological restrictions on the distribution of copyrighted materials as well as education of instructors and students in copyright requirements.

Key points of the TEACH Act:

- Limit access to copyrighted works to students currently enrolled in class
- Limit access only for the time needed to complete the class session or course
- Inform instructors, students, and staff of copyright laws and policies
- Prevent further copying or redistribution of copyrighted works
- Do not interfere with copy protection mechanisms
- Apply "Fair Use" doctrine to print and digital environments

- Apply "Fair Use" doctrine even when there are no established guidelines for particular uses of copyrighted materials

For more information on the TEACH Act, see the [TEACH Act FAQ](#).

RESPONSIBILITY

Administrative Responsibility

The Copyright and Intellectual Property Subcommittee of the Information Technology Committee shall be responsible for updating NSCC copyright policies. Regarding Distance Learning, the College will apply measures to protect against unauthorized access; use only lawfully acquired copies of works performed; and educate the campus community about copyright.

College Copyright Agent

The College is mandated by federal law to designate an "Agent to Receive Notification of Claimed Copyright Infringement." The College's designated agent is Jan Forsstrom, Vice President of Administration.

Anyone who believes that any faculty, staff, or student of NSCC has infringed on their rights as a copyright owner, should contact the agent with the following information:

- Complete name, mailing address, email address, phone and fax numbers.
- Information about the copyrighted material (URL, book title, etc.).
- The URL of the NSCC site which has the infringing material.
- Any other information supporting the claim.

Individual Responsibility

NSCC students, faculty, and staff who are responsible for College activities or projects are responsible for learning about applicable fair use, and for following its dictates. Members of the College community who willfully disregard the copyright policy do so at their own risk and assume all liability. The best advice is to act in an informed and good faith manner.

Attribution and Acknowledgement

- Give complete credit for sources that are used. Attributions for each work used are required.
- Include typical bibliographic information: author, title, publisher, place and date of publication.
- Include the 4 copyright elements: include copyright notice, the copyright symbol, ©, year of first publication and the name of the copyright holder.
- Complete attributions for images must appear on screen with the image(s) used unless this would interfere with an exam.

What Happens to Those Who Infringe the Copyright Policy?

The person who actually commits the infringement is liable. In cases of "willful disregard of the law," criminal actions may be taken. Statutory damages of up to \$100,000 per work infringed may be awarded.

Willful infringement means that you knew you were infringing and you did it anyway. Ignorance of the law, though, is no excuse. If you don't know that you are infringing, you may be liable for damages - only the amount of the award will be affected.

How Do Publishers Know the Copyright Law Has Been Violated?

Publishers search the Internet for their materials, and automated services search for files and materials not authorized to reside on college servers.

FAIR USE

What Is Fair Use?

Fair Use is the copyright legal principle that permits the use of portions of copyrighted materials in face-to-face teaching, personal discussion, research, and news reporting, without the permission of the copyright owner.

Non-Infringing Uses Involving Copyright

Fair Use Exemption:

- If you work at a non-profit educational institution, you are allowed to use copyrighted work, in certain limited circumstances, without making payment or seeking permission from the copyright holder.
- Educators are allowed exemptions under the "Fair Use" doctrine, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), and scholarly research.

The 1976 Copyright Act set forth four "provisions" by which copyrighted materials could be used in non-profit educational settings. Remember, these guidelines are the law and you should consider these four factors to make a fair use analysis of your use of copyrighted works:

- Is the purpose or character of use commercial or non-profit? (Fair use is more likely when the copyrighted work is transformed into something new; for example quotations incorporated into a paper, or thumbnail images made of copyrighted photographs).
- Is the nature of the copyrighted work creative or informational? (Courts favor the fair use of nonfiction rather than fiction or other creative works).
- What is the amount and substantiality of the portion used in relation to the copyrighted work as a whole? (That is, use no more than is necessary. For small poems, perhaps the entire work; for larger works, only a small amount; but NEVER copy the "heart" or "creative essence" of a work.)
- What is the effect of this use on the potential market for, or value of, the copyrighted work? This is the most important question of the four; did the copying or use deprive the copyright holder of a sale? Copying should not harm the commercial value of the work or potential value of the work.

Copying or Using the Following Formats:

Photocopy machines

Every photocopy machine on campus must include effective signage incorporating the following text:

Notice: The copyright law of the U.S. (Title 17 U.S. code) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.

Print

Single copies for classroom use

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 chapter from a book.
- An article from a periodical or newspaper.
- 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

Fair use guidelines allow teachers to make multiple copies with the following limitations:

- The copying must be done at the initiative of the teacher (if it is unreasonable to get permission from the copyright owner). If there is time to seek a publisher's reprint, or get permission, you are obligated to do so.
- Only one copy is made for each student.
- No charge is made to the student except to recover the cost of copying.
- The copying is done for only one course.
- The same item is not reproduced from term to term.
- No more than one work (short poem, article, story, essay, or two excerpts) is copied from a single author during one class term.
- No more than 3 authors are copied from a single collective work (e.g. an anthology or periodical volume) during one class term.
- No more than nine instances of multiple copying for one course during one class term.

[The limitations stated in the three previous entries shall not apply to current news periodicals and newspapers and current news sections of other periodicals. These limitations are somewhat dated, and current thinking would encourage the instructor to do what is required for the instructional objectives of the course.]

- For an article, the limit is 2,500 words.
- For a longer work of prose, the limit is 1,000 words, or 10% of the work, whichever is less.
- For a poem, the limit is 250 words.
- For a longer poem, an excerpt of no more than 250 words.
- For a chart, diagram, cartoon or picture, the limit is no more than one from a book, periodical or newspaper.
- "Consumable works," (such as workbooks and standardized tests) shall not be copied.

- Copyright notice must be included on each copy. Faculty should stamp the copyright notice on the original copy before having copies made.

Coursepacks

The practice of creating coursepacks of selected readings for students to use is confusing. Under the law, coursepacks must be:

- Limited for brevity (single chapters, single articles from a journal issues, several charts, graphs or illustrations, other similarly small parts of a work).
- Limited to one semester or term.
- Limited to non-profit educational settings.
- Subject to acquisition of permissions or licensing (obtain permission for materials that will be used repeatedly by the same instructor for the same class).
- Include any copyright notices on the original, and include appropriate citations and attributions to the source.

The Library will place legally produced course packets on reserve. If an instructor wishes to produce his/her own packet of materials for reserve, he/she must obtain permission to do so from the copyright holder of every photocopied piece.

See [Coursepacks and Fair Use](#)

Audio

Recorded and Sheet Music

It is permissible for:

- A performance - emergency copying is permitted so long as replacement copies are subsequently purchased.
- Single copies for academic, personal or library reserve use - an entire performable unit (section, movement, aria, etc.) if the unit is out of print or available only in a larger work.
- Multiple copies for classroom (non-performance) use - excerpts may comprise no more than 10% of a whole work and may not constitute a performable unit.
- 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.
- A single copy of a sound recording (such as a tape, disc or cassette) of 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

permitted copying pertains only to the copyright of the music itself and not to any copyright that may exist in the sound recording.)

- A single copy may be made for the purpose of constructing aural exercises or examinations. Otherwise, the restrictions on copying non-music recordings apply.
- Copies must include the copyright notice that appears on the printed copy.

See [Fair Use of Copyrighted Materials--Music](#)

Non-Music Recordings

- Cassettes or disks may not be copied unless replacement recordings from a commercial source cannot be obtained at a fair price. However, recording brief excerpts is considered fair use.

MP3 Files

North Shore Community College employees and students are reminded that it is illegal under Federal law (Title 17 of the US Code and more recently the Digital Millennium Copyright Act, 105 PL 304) to distribute copyrighted music in any form, including digital mp3 files, without a license to do so from the copyright holder. It is a violation of College policies to use the campus network for illegal activities, or in ways that consume capacity and services needed for instruction, research, and other core purposes. The *individual* using electronic resources (e.g., computers, campus network, Internet access, etc.) is responsible for adhering to all college policies and guidelines as well as all copyright and legal restrictions.

Software

Software owners are permitted to make a back-up archival copy of software in the event the original disk fails to function. Such back-up copies are not to be used on a second computer at the same time the original is in use.

Also, a copy may be made

- When purchasing software, 1 license per machine is required.
- When it is an essential step to utilize that program in conjunction with a machine, i.e. to load it on a hard drive, to translate from one computer language to another, or to convert from 5.25" to 3.5" disk.

Videotapes and DVDs

"Fair Use" and "Performance and Display" are distinct from each other in the 1976 Copyright Act. When an educator perceives the need to copy a portion of an AV work to be used in an instructional situation, that is considered "Fair Use," but that means duplication for video owners and distributors.

It is illegal to copy an entire AV work or to convert it to another form. For example, it is an infringement to:

- Copy a 16 mm film onto VHS videotape, even if the title is not available to buy in VHS format.
- Copy a 3/4 -inch videotape onto VHS tape.
- Copy a laserdisc onto videotape.

The DMCA portion of the Copyright Law allows for format transfer of obsolete technologies to new. So those 3/4 inch tapes and 16 mm films can be copied to VHS or DVD unless they are already available in that format. Then copying is illegal and the AV item must be purchased.

Always seek permission from the copyright holder before copying any AV item. Copying AV materials without first gaining permission is subject to challenge under the "Fair Use" doctrine. If timeliness is a concern and copying is done, abide by the four "fair use" criteria for copying. Use only the smallest amount necessary to meet the instructional objective. Be advised that the definition of the "creative essence" of a work may differ markedly from user to creator.

Computers and Multimedia

Multimedia involves the integration of text, graphics, audio and/or video into a computer-based environment.

The opening screen of the multimedia project is to state that copyrighted materials are being used under fair use and are being used according to the Multimedia Fair Use Guidelines.

Following are "Fair Use" guidelines for educational multimedia, developed in 1996 by CONFU (Conference on Fair Use), a group of educators, attorneys, publishers, librarians and others, convened by the Clinton Administration, and amended by the 1998 CONFU final report:

- Students may incorporate others' works into their multimedia creations and perform and display them for academic assignments.
- Faculty may incorporate others' works into their multimedia creations to produce curriculum materials for educational use: face-to-face instruction. (Faculty may retain these multimedia products incorporating the copyrighted works of others for a period of two years. After two years, permission must be sought.)
- Faculty may provide for multimedia products using copyrighted works, following Fair Use Guidelines, to be accessible in distance learning courses, provided that only those students may access the material (using password or PIN).
- Faculty may demonstrate their multimedia creations at professional symposia, and retain them in their own portfolios.

- For motion media (e.g. video clips), use is limited to 10%, or three minutes, whichever is less.
- For text, use is limited to 10%, or 1,000 words, whichever is less.
- For poems, use is limited to 250 words, three poems per poet, and five poems by different poets from an anthology.
- For music, use is limited to 10%, or 30 seconds, whichever is less.
- For photos and images, use is limited to five works from one author and 10%, or 15 works, whichever is less, from a collection.
- For database information, use is limited to 10%, or 2,500 fields, or cell entries, whichever is less.
- Only two copies may be made; an additional copy may be made for preservation purposes but may only be used or copied to replace a use copy that has been lost, stolen, or damaged. Joint authorship: everybody gets a copy.

See [Digitizing and Using Others' Work in Multimedia Materials for Educational Purposes](#)

College Web Pages

Web pages hosted by North Shore Community College are subject to all copyright policies. Any individual who wishes to post copyrighted materials on his/her web page or a college webpage is advised to secure, in advance, in writing, permission of the copyright holder and provide a copy of that documentation to the College's designated copyright agent. Anyone who posts copyrighted materials on his/her web page or a college web page without first securing and providing proof of permission from the copyright holder is individually liable for copyright infractions.

Fair Use Guidelines for Distance Learning

General fair use guidelines must be followed:

- Materials can be used only once without permission, and copies must be made from a lawful copy.
- Obtain permission for materials that will be used repeatedly by the same instructor for the same class.
- A notice of copyright must appear on an introductory screen, and proper attribution given for each work used.
- Access to the materials should be limited to students enrolled in the course, and should be secured by requiring passwords or PINs.
- Access will be terminated at the end of the class term.

The following are suggestions for what is permissible for display in a distance education setting:

- Text
- A photograph, chart, map or graph
- A computer screen display (static, not moving)

- An illustration
- A single still frame from a video, videotape, laserdisc, or DVD
- Portions of audio from non-dramatic music

The following are suggestions for what is *not* permissible in distance education, without first seeking and receiving permission from the copyright holder:

- Full motion video or audio from a videotape, laserdisc, DVD, or video file on a computer (even though the digitization of that video may be fair use. The performance and display in distance education is still not allowed.).
- Consecutive images from a slide set, filmstrip, or 16 mm movie.
- Audio from a dramatic work.
- Live performance of a play or musical.
- If it moves, it is not allowed, without permission. Proceed from the basic assumption that under no circumstances can performance of audiovisuals or dramatic works be sanctioned in distance education without permission from the copyright holder.

See [Displaying and Performing Others' Works in Distance Learning Fair Use Issues Guidelines for Classroom Copying of Books and Periodicals](#)

LIBRARY AND COPYRIGHT

Hardcopy Reserves

All copyright guidelines apply to library reserves. The library reserve shelf functions as an extension of the classroom and, thus, adheres to the American Library Association's Model Policy Concerning College and University Photocopying for Classroom, Research and Library Reserve Use (1982), which suggests the following guidelines:

- The distribution of the same photocopied material does not occur every semester.
- Only one copy is distributed for each student.
- The material includes a copyright notice on the first page of the portion of material photocopied.
- The students are not assessed any fee beyond the actual cost of photocopying.

Requests for multiple copies on reserve should meet the following guidelines:

- The amount of material should be reasonable in relation to the total amount of material assigned for one term of a course taking into account the nature of the course, its subject matter and level.
- The number of copies should be reasonable in light of the number of students enrolled, the difficulty and timing of assignments, and the number of other courses which may assign the same material.
- The material should contain a notice of copyright.
- The effect of photocopying the material should not be detrimental to the market for the work.

Limit reserve materials to:

- Single articles or chapters; several charts, graphs or illustrations; or other small parts of a work.
- A small part of the materials required for the course.
- Copies of materials that a faculty member or the library already possesses legally (i.e. by purchase, license, fair use, interlibrary loan, etc.).

Include:

- Any copyright notice on the original.
- Appropriate citations and attributions to the source.

• A Section 108(f)(1) notice:

- "Copyright Notice: Copying, displaying and distributing copyrighted works, may infringe the owner's copyright. Any use of computer or duplicating facilities by students, faculty or staff for infringing use of copyrighted works is subject to appropriate disciplinary action as well as those civil remedies and criminal penalties provided by federal law."

Limit access to:

- Students enrolled in the class and administrative staff as needed.
- Terminate access at the end of the class term.

- Obtain permission for materials that will be used repeatedly by the same instructor for the same class, unless the library or the faculty member owns the original copy.

Single copying in libraries

- For research purposes, a teacher may select books, magazines or journal articles, or other documents, to be placed "on reserve" in the library, which functions as an extension of the classroom.
- Libraries may also make single copies for use "on reserve," but only at the request of a faculty member. At the end of the semester, these copies must be returned to the faculty member.
- Copyright permission is not required for all reserve readings however full bibliographic information must accompany each photocopied article or book chapter.
- Copyright permission is required if the materials will be used for subsequent semesters.
- Write the full bibliographic citation on the first page of every copy, or on an attached page. Copies should have copyright notice on top page.
- NSCC Library accepts single photocopies of copyright-protected chapters, articles, etc. to be placed on reserve. The photocopies are considered to be the instructor's property. An instructor may provide up to 3 photocopies when a course is large enough to require more than one of an assigned photocopy.
- If the Library or the instructor does not own an original, the instructor must provide written permission or indication of royalty payment for photocopies in excess of one.
- Copies on Reserve must be marked: "NOTICE: This material may be protected by copyright law (Title 17 U.S. Code)."

Electronic Reserves

- Materials should be made available over the campus network, allowing students to print or download, but access must be restricted to students currently enrolled in the course.
- Materials should be cataloged under the faculty name, and course name and number only.
- Materials are on reserve for one semester only. Anything held for longer than one semester requires permission.
- Materials should include copyright notice plus a further statement, such as "No further transmission or distribution of this material is permitted."

How Does Fair Use Apply to Electronic Reserves?

Purpose of Fair Use:

- Materials may be placed on electronic reserve only for the purpose of serving the needs of specified educational programs.
- Materials may be placed on electronic reserve only at the specific request of the instructor.

- Access to materials will be limited by password or other means to deter unauthorized access beyond students enrolled in the specific course for which the specific materials are needed.
- Students should not be charged specifically or directly for access to electronic reserve systems, and no person or unit at the university should benefit monetarily from the use of the material.

Nature of the Work:

- Materials placed on reserve must be related directly to the educational objectives of a specific course.
- Only those portions of the work relevant to the objectives of the course may be placed on reserve.
- The law of fair use applies more narrowly to highly creative works; accordingly, the library will generally not accept for reserve substantial excerpts from novels, short stories, poetry, and modern art images.

Amount of the Work:

- Materials placed on reserve will generally be limited to brief works or brief excerpts from longer works. (A single chapter from a book, a single article from a journal, and unrelated news articles.)
- The amount of the work placed on electronic reserve must be related directly to the educational objectives of the course.

Effect of the Use on the Market for the Original:

- Repeat use of the same material by the same instructor for the same course will require permission from the copyright owner.
- Materials on reserve will include a citation to the original source of publication and a form of a copyright notice.
- The electronic reserve system should advise users that the materials are made available exclusively for use by students enrolled in the course and must not be distributed beyond that limited group.
- Access to materials will be limited by password or other means to deter unauthorized access beyond students enrolled in the specific course for which the specific materials are needed.

Electronic reserve systems should not include any material unless the instructor, the library, or another unit of the educational institution possesses a lawfully obtained copy.

Materials on reserve may not include any works that are available for students to purchase—whether as a book, coursepack, or other work-in the campus bookstore or other customary outlet.

See [Digitizing and Using Others' Works in Electronic Reserves](#)

Electronic Databases

- Authorized users agree to abide by the Copyright Act of 1976 as well as any contractual restrictions, copyright restrictions, or other restrictions provided by publishers.
- Authorized users may view screen displays of data, and may download or print limited copies of citations, abstracts, full text or portions thereof provided the information is used solely for personal, noncommercial use.
- No part of any data provided in any form may be disclosed, reproduced, transferred or transmitted in any form without the prior written consent of the vendor.
- NSCC will take all reasonable precautions to limit the usage of the databases to those specifically authorized by agreement.
- The library cannot provide electronic transfer of articles for interlibrary loan.

Preservation in Digital Formats

Digital preservation copies may be made of both published and unpublished works under the following conditions:

- Unpublished-for preservation or security, or deposit at another library, if the work is currently in the collection of the library making the copy.
- Published-copies are solely for replacement of works that are damaged, deteriorating, lost, or stolen, or if the format of the work is obsolete; the library conducts reasonable investigation to conclude that an unused replacement cannot be obtained at a fair price.
- It appears that digital technology may be used to make the preservation copy and to transfer it to a qualified library.
- Once in the library collection, the digital version then must be limited to the building.

See Section 108(b) of the Copyright Act.

Photocopies Obtained Through Interlibrary Loan

Section 108 (d) of the Copyright Law of 1976 specifies that a library may copy "no more than one article or other contribution to a copyrighted collection or periodical issue, or to a small part of any other copyrighted work."

- The copy must become the property of the requestor, and its use is limited to private study, scholarship, or research.
- The NSCC Library can request five photocopied articles from the most recent five years of a periodical the library does not subscribe to.
- If the Library acquires a copy for reserve through interlibrary loan or document delivery, the copy becomes the property of the faculty member.
- The library will not provide the electronic transfer of articles from licensed databases for interlibrary loan, and the following notice must be included on all request forms:
"WARNING CONCERNING COPYRIGHT RESTRICTIONS
The copyright law of the U.S. (Title 17, U.S. Code) governs the making of photocopies or other reproductions of copyrighted material."

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the

photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research."

If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

Library/Archive Exemptions

Exemptions are given to libraries and archives for limited reproduction and distribution of copyrighted materials. These exemptions do not apply to musical works, pictorial, graphic or sculptural works, or motion picture or other A/V works, with the exception of news reporting.

A library or archives or any of its employees, acting within the scope of employment, can reproduce a single copy or phonorecord or work and distribute such copy or phonorecord under this section if:

- Copy is made without purpose of direct or indirect commercial advantage
- Library or archive collections are open to the public or available to affiliated researchers and other researchers in the specialized field.
- Reproduction or distribution includes Notice of Copyright.

Summary of Library Provisions of Section 108

- 108 (b)
Unpublished works currently in the collection can be duplicated in facsimile form for preservation and security or for deposit for research use in another library or archives that is open to the public.
- 108 (c)
Items in the collection which are published (copy or phonorecord) and have been damaged, lost, stolen or are deteriorating may be duplicated in facsimile form if the library has made a reasonable effort to purchase an unused replacement at a fair price and has been unsuccessful.
- 108 (d)
A single copy of an article or contribution to a copyrighted work may be made for a user if he requests it, if it is the only item from that copyrighted collection or periodical issue, if the copy becomes the property of the user, if the library has no notice that the copy will be used for any purpose other than private study, scholarship or research, and if the library displays the "Warning of Copyright Statement" prominently where orders are taken and on the order form.
- 108 (e)
An entire work may be copied and distributed by a library/archive if it is part of a library collection, if the library/archives first determines after reasonable investigation that the copy or phonorecord cannot be obtained at a fair price, if the copy or phonorecord becomes the user's property, if the library/archives has no notice that the copy/phonorecord will be used for any purpose other than private study, scholarship or research, and if the library/archives displays prominently the "Warning of Copyright Statement."
- 108 (f)

Library employees are not liable for copyright infringement for unsupervised use of reproducing equipment located on library premises if the equipment the equipment displays a notice that making copies may be subject to copyright law.

- 108 (g)

Library employees may be liable if they are aware or have a substantial reason to believe that systematic reproduction or distribution of multiple copies is intended. Interlibrary Loan is acceptable as long as it does not have the purpose or effect of substituting for subscriptions or purchase of the work in question.

Limit of Liability: The Library will exercise reasonable, good faith efforts to inform Authorized Users of the restrictions on use of the licensed material and to enforce such restrictions; however, the Library shall not be liable for the actions of individual users who act without the knowledge or consent of the Library.

REQUESTING PERMISSION FROM THE COPYRIGHT HOLDER

College employees should obtain prior written permission from the copyright owner to copy materials in those situations when the proposed copying does not come within the doctrine of "fair use".

Examples of Instances in Which Permission is Required

- Commercial reproduction and distribution
- Any copies over and above those allowed
- Use on a network that is not protected by a password

Obtaining such permission is usually not difficult and, in most cases for classroom use, is granted with no royalty charge.

How to Obtain Permission

When a proposed use of photocopied material 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, 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]).

When the copyright owner is the *publisher* of the work, the request should be sent, together with a self-addressed return envelope, to the permissions department of the publisher in question. If the address of the publisher does not appear at the front or on the cover of the material, it may be obtained by asking the Library to locate the correct information.

The process of requesting permission directly from the publisher requires time, as the publisher must check the status and ownership of rights and related matters, and 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 students who receive the copies of the material.

When the copyright owner is the *author*, the request should be directed to the author either in care of the publisher's permissions department, as set forth above, or at the author's address. For purposes of proof, and to define the scope of the permission, it is important that the permission be in writing.

If the copies of the material are to be used for Course Reserves, a copy of the permission must be supplied to the Library when the material is placed on Reserve.

The Copyright Clearance Center (CCC) will obtain permissions; however, a fee for this service will be charged.

Individuals may obtain permission on their own, usually at no cost, by writing to the copyright owner.

To obtain publishers' addresses to write for copyright permission ask a Reference Librarian.

| Contact the **Copyright Clearance Center** or Vice President and NSCC copyright agent Jan Forsstrom for permission to digitize an article.

See [American Society of Composers, Authors and Publishers](#) (ASCAP)

[Recording Industry Association of America](#) (RIAA)

[Harry Fox Agency](#) for licenses to perform dramatic music.

The [Motion Picture Licensing Corporation](#) (MPLC) for a license to use clips from VHS or videodisc motion pictures. This corporation may grant umbrella licenses to non-profit groups for the public performances of home videos and discs.

RECORDING OF CAMPUS 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

Broadcast programs may be recorded off-air simultaneously

- Program retained by a non-profit educational institution for 45 days after date of recording.
- After 45 days, it must be erased or destroyed.
- Use of the copy is restricted to educational settings and may only be used once.

Videotaping (this applies only to non-profit education institutions)

- Any TV program may be recorded.
- Program may be retained 45 calendar days.
- Use: first 10 school days only.
- Remaining 35 days are for purposes of evaluation to negotiate a license for retention.
- Recordings must contain the copyright notice on the broadcast program as recorded.

Off-Air Recordings

- Need not be used in their entirety.
- May not be altered from their original content.
- May not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

INTERNET

Everything on the Internet is copyrighted. It is a common misconception that everything on the Web is in the public domain. Although documents on the Web are easier to reproduce and distribute than other media, the ease of reproduction and distribution does not change the copyright. Digital content is still copyrighted, and copying or reproducing it without permission may be illegal. For example, if a student downloads photographs from an online magazine, gives copies to friends, or forwards the pictures by e-mail, the student has violated the Copyright Act. A professor who uploads large excerpts from a book, paper, or other copyrighted work for distribution to students on a course web page has violated the Copyright Act.

Use of Links on Internet Sites

A site's existence on the Internet gives implied permission to link to that site, but the owner of a page that is linked has the right to demand that the link be removed. For courtesy's sake, ask permission to link.

College Website and Copyright

- The college, under the Work Made for Hire doctrine, owns components created by employees, unless the college has adopted contrary policies.
- Contracted work may belong to the college if the contract for the work so states; otherwise there may be an implied license to use it as designed.
- Obtain express, written permission to use copyrighted materials on the website, even if used only in "part."
- Every piece of creative work on the College website should be owned or licensed for use to the college.

Use of Images and Text

- Scanned images cannot be used without permission, except as noted in fair use guidelines.
- Scanned text cannot be used without permission, except as noted in Fair Use Guidelines.
- Photographs taken of individuals must be accompanied by a photography release.
- Photos of an individual requires permission. This is a privacy issue. Someone's picture appearing on the Web without permission might also violate publicity rights.
- Anonymous group pictures require a proviso on the Web page that requesting identification to make the page more useful and informative and to indicate a desire to give credit.

See: [Digitizing and Using Images for Educational Purposes](#)

PUBLIC PERFORMANCE

The Federal Copyright Act (Title 17 of the United States Code) governs how copyrighted materials, such as movies, may be used. Neither the rental nor the purchase of a videocassette carries with it the right to show the tape outside the home.

In some instances no license is required to view a videotape, 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.

Public Performance Exemption

When an educator presents to students an audio-visual work (e.g. video, VHS tape, laserdisc, DVD movie, 35 mm slide, filmstrip, or 16 mm movie), the issue is about "Performance and Display." An AV work is a form of expression and, as such, is protected by copyright.

The 1976 Copyright Act allows teachers to share AV 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 as part of a public performance without licensing.

AV works may not be transmitted to other schools or locations without permission of the copyright holder. This all but rules out distance education as a venue for the performance of AV works, unless permission is received.

Transmission of an AV 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 videocassettes and videodiscs 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:

- The performance of the AV work must meet the instructional objective.

- The AV work must be a "lawfully made" copy.

Any other type of performance or display is potentially an infringement.

Sources for Videos with Performance Rights:

Films, Inc. (1-800-4222, ext. 43)

Films for the Humanities and Social Sciences

PBS Videos

The [Motion Picture Licensing Corporation](#) (MPLC) is an independent copyright licensing service exclusively authorized by major Hollywood motion picture studios. (1-800-462-8855). MPLC licenses public performance showings of home videotapes outside the home and provides 12-month umbrella licenses to profit and nonprofit organizations as well as government entities.

INTELLECTUAL PROPERTY RIGHTS

Intellectual property is any potentially copyrightable creation or potentially patentable invention. This includes works of art, inventions that might normally be developed on a proprietary basis, discoveries, patents and patent applications, trademarks, know-how, methods, procedures, and copyrights and copyrightable materials.

Employee-Owned Intellectual Property

- If it is unrelated to the employee's job responsibilities and the employee made no more than incidental use of College resources
- If it is an invention that has been released to the inventor
- If the intellectual property is embodied in a professional-, faculty-, researcher- or student-authored scholarly, educational, artistic, musical, literary or architectural work in the author's field of expertise (a "scholarly work"), even though such a work may be within the scope of employment and even if College resources were used; unless it is a scholarly work created by someone who was specifically hired or required to create it or commissioned by the College, in which case the College, not the creator, will own the intellectual property.
- Whenever a copyrightable work is created by a member of the non-teaching staff as part of the individual's College responsibilities, the work shall be treated as a work-for-hire under the terms of the Copyright Act of 1976, and ownership will ordinarily be retained by the College.

College-Owned Employee-Created Intellectual Property

Any one of these circumstances will result in College ownership:

- If intellectual property is created by an employee within the scope of employment.
- If intellectual property is created on College time, with the use of College facilities or state financial support.
- If intellectual property is commissioned by the College pursuant to a signed contract or if it fits within one of the nine categories of works considered works for hire under copyright law.
- If intellectual property results from research supported by Federal funds or third party sponsorship.

Student Works and Copyright

Faculty members should be aware that students own the copyright to their work, including papers and assignments they have completed; therefore student works are protected by copyright regulations. Faculty should have written permission from the student copyright holder to use their works. Any student work that is to be placed on reserve must be accompanied by the written and signed permission of the student to do so (specifying name, contact information, title of item[s], statement giving permission, and dates included).

Distance Education and Intellectual Property Rights

- Ownership – Faculty, professional staff members, and the Colleges shall retain the same proprietary interests and rights over course materials for distance education courses as they have under the applicable state and federal law.
- Commercial Use - If the course or course materials developed by a faculty member for a distance education course for which the faculty or professional staff member has received compensation for adaptation achieves commercial value, the net proceeds (minus the costs of marketing, commercialization, legal fees or other costs associated therewith) shall be divided between the College and the developer(s) of that property, with the College retaining 50% and the developer(s) retaining 50% unless the College and the developer(s) have negotiated otherwise.

From: Distance Education Agreement for the MCCC and the MA Community Colleges

TEACH Act

This policy was developed to address the requirements of the Technology, Education and Copyright Harmonization Act (the TEACH Act), signed into law November 2, 2002.

The TEACH Act updates copyright law to broaden instructors' legal use of copyrighted materials in online instruction at accredited nonprofit educational institutions.

Removal of official college content, especially course materials, can be harmful to academic freedom, to teaching effectiveness, and to the college's educational mission. Therefore, faculty and staff are encouraged to secure either copyright permission, a license, or a legal basis for use of someone else's intellectual property without permission, before using the material.

Instructors involved in distance education may use copyrighted materials that meet requirements of college policies and procedures and that follow the guidelines of the TEACH Act:

- Avoid use of commercial works that are sold or licensed for purposes of digital distance education.
- Avoid use of pirated works, or works where it is otherwise known that the copy was not lawfully made.
- Limit use of works to an amount and duration comparable to what would be displayed or performed in a live physical classroom setting. For example, TEACH does not authorize the digital transmission of textbooks or coursepacks to students.
- Supervise the digital performance or display, make it an integral part of a class session, and make it part of a systematic mediated instructional activity. For example, instructors should interactively use the copyrighted work as part of a class assignment in the distance education course.
- It should not be an entertainment add-on or passive background/optional reading.
- Enrolled students may post to distance education class pages as long as there is actual supervision by the instructor.
- Actual supervision does not require prior approval for posting nor does it require real-time or constant presence of the instructor.
- Access to software tools provided by the College limits use by students enrolled in the course, prevents downstream copying by those students, and prevents students from retaining the works for longer than a "class session."
- Notification to students that the works may be subject to copyright protection and that they may not violate the legal rights of the copyright holder. The following should be posted on all distance education class sites: "The materials on this course web site are only for the use of students enrolled in this course for the purposes associated with this course and may not be retained or further disseminated."

Policy:

The TEACH ACT permits:

- Performances of non-dramatic literary works.
- Performances of non-dramatic musical works.
- Performances of any other work, including dramatic works and audiovisual works, but only in “reasonable and limited portions.”
- Displays of work “in an amount comparable to that which is typically displayed in the course of a live classroom session.”

The following works are excluded by the TEACH ACT:

- Works that are marketed “primarily for performance or display as part of the mediated instructional activities transmitted via digital networks.”
- Performances or displays given by means of copies “not lawfully made and acquired” under the U.S. Copyright Act, if the educational institution “knew or had reason to believe” that they were not lawfully made and acquired.
- Work originally produced in analog format cannot be digitized under the following circumstances:
 - The amount converted is limited to the amount appropriate for the instructional activities.
 - A digital version of the work is not available to the institution, or is secured behind technological protection preventing accessibility in the distance-education program.

Materials may be used under the following conditions:

- The work or performance used is “at the direction of, or under the actual supervision of an instructor.”
- The work or performance used is “an integral part of a class session offered as a regular part of the systematic, mediated instructional activities” of the college.

Procedure:

- Faculty will follow the TEACH Act guidelines for the use of copyrighted work included in their online, web-enhanced, or hybrid web based course sites.
- Course syllabi must include the following statement: “The materials found in this course are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated.”
- Works that do not meet the above conditions must qualify as “Fair Use” or permission must be granted from the copyright holder(s).
- North Shore Community College will maintain online course materials on a secure server and require students to authenticate using North Shore Community College usernames and passwords to access their course websites.

COPYRIGHT AND THE TEACH ACT RESOURCES

[American Society of Composers, Authors and Publishers](#)

[Basic TEACH Checklist](#)

[Center for the Public Domain](#)

[Checklist for Fair Use](#)

Copyright Clearance Center

[Copyright Essentials](#)

[Copyright Notice to Students](#)

[Copyright Tutorial](#)

[Determining Fair Use](#)

Digitizing and Using Images for Educational Purposes

Digitizing and Using Others' Work in Multimedia Materials for Educational Purposes

Digitizing and Using Others' Works in Electronic Reserves

[Duties of Institutional Policymakers](#)

[Fair Use Analysis](#)

Fair Use of Copyrighted Materials--Music

[Fair Use Worksheet](#)

[Full Text of the TEACH Act](#)

Getting Permission

[Guidelines for Classroom Copying of Books and Periodicals](#)

[Harry Fox Agency](#)

[Motion Picture Licensing Corporation](#)

[Recording Industry Association of America](#)

[Reproduction of Copyrighted Works by Educators and Librarians](#)

[Summary of the TEACH Act of 2002](#)

[TEACH Act Best Practices using Blackboard](#)

[TEACH Act FAQ](#)

[Teach Act Guidelines](#)

[TEACH Toolkit](#)

[US Works in the Public Domain](#)

[Using Copyrighted Materials in Teaching, Research and Learning Environments](#)

[When Work Passes Into the Public Domain](#)

GLOSSARY

Anthology: a work that is comprised of a number of contributions assembled into a whole.

Archival Copy: an original, or copy of an original, kept in a restricted area, to be used as determined by the contract or license with the copyright owner. Usually refers to computer software and audiovisual recordings.

Audiovisual Works: works that consist of a series of related images which are intended to be shown by the use of machines or devices such as projectors, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

Authorized users of library electronic databases: authorized users are limited to currently enrolled students of the licensed campus, current faculty and staff, and authorized on-site patrons of the library. Remote access is permitted by currently enrolled students of the licensed campus and current faculty and staff.

Copyright: an "intellectual" property right, defined as the exclusive right of a creator to reproduce, create derivative works from, distribute, perform, display, sell, lend or rent his/her creation(s).

Course: a comprehensive set of materials that has been developed and combined in such a way as to substantiate a semester-long program of study.

Course materials: fixed expression of ideas and resources that are used as the basis of the course. These materials may explain course content; illustrate course concepts; illuminate certain points; or achieve course goals. Materials include, but are not limited to text, images, syllabi, diagrams, graphs, multimedia presentations, videos, simulations, and group projects that are developed to illustrate or explain the subject matter.

Digital Transmission: a transmission in whole or in part in a digital or other non-analog format.

Duplication: reproducing material by any means including, but not limited to, writing, typing, photocopying, scanning, downloading, facsimile, and video or audio recording.

Face-to-Face Teaching: instructional activity conducted by an educator which must take place in a classroom, must be part of systematic instruction, and the class must be comprised of registered students and/or faculty and professional staff.

Fair Use Policy: copyright legal principle that permits the use of portions of copyrighted materials in face-to-face teaching, personal discussion, research, and news reporting, without the permission of the copyright owner.

Multimedia: a combination of several different forms of media in a single file.
Off air videotaping: taping programs broadcast over channels normally received free (e.g. with a normal antenna). This does not include programs received only by cable or satellite. Some cable programs allow you to tape, use and then-after a certain date-either erase the program or purchase it.

Phonorecords: are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are embedded by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first embedded.

Public Domain: the status of publications, products, and processes that are not protected by copyright; for example, materials on which the copyright has expired; works created by the federal government or a state government.

Public Performance/Display: to perform or display at a place open to the public, or at any place where a substantial number of persons outside of a normal circle of a family or its social acquaintances is gathered. For example, a film advertised to the general public on campus, or a film shown in the Commons for entertainment are public performances.

Work-made-for-hire: a work prepared by an employee within the scope of his or her employment, where the copyright belongs to the employer.

Please be advised that "**Copyright Policy and The TEACH Act: Guidelines for North Shore Community College**" provides general copyright information as it applies to North Shore Community College and does not offer legal opinion.

The information in this document has been excerpted, with permission, from Mount Wachusett Community College with special thanks to Linda Oldach.