



Book	Administrative Procedures
Section	Chapter 3: General Institution
Title	Use of Copyrighted Material
Code	AP 3750
Status	Active
Adopted	July 21, 2004
Last Revised	December 1, 2006

All students, staff, and faculty in the Yuba Community College District are expected to comply with United States copyright law (see Title 17 of the United States Code). Copyright provides legal protection for creative works or, more generally, for any expression of an idea when fixed in a tangible medium. It intends to balance fair and reasonable access to information with protecting the rights of the copyright holder. Copyrighted material includes such items as books, articles, films, videos, photographs, music recordings and scores, plays, visual art, and architectural drawings. With the advent of the Internet, e-mail, Web information, graphics, databases, and software have been added to the copyright umbrella, thus extending copyright to digital works or those transformed into a digital format. Actions such as copying, distributing, downloading, and uploading information on the Internet may infringe the copyright for that information.

In order to use a copyrighted work, one must either have the permission of the copyright holder or qualify for exemption under the provisions of fair use. The copyright holder is usually the creator of a work but also may be the institution or person who hired the creator. YCCD abides by the provisions of fair use as spelled out in Sections 107 and 108 of the revised Copyright Act of 1976, the Digital Millennium Copyright Act (DMCA) of 1998, and the Technology, Education and Copyright Harmonization Act (TEACH) of 2002.

The District does not sanction the illegal use of someone else's work in any form. Willful infringement of copyright law by a District employee may result in disciplinary action and personal liability in the event of a loss to the District resulting from litigation.

It is the intent of the Yuba Community College District that in addition to federal copyright law, the following rules also shall apply to the use and/or reproduction of copyrighted materials by staff:

- Copying books, articles, and other print material: The federal copyright law allows for exceptions to the copying of materials under the auspices of "fair use". Fair use is determined by the considering of four (4) factors enumerated in the law. Those four (4) factors are:

PURPOSE - Generally, commercial versus non-commercial use of the material. Public education is considered non-commercial enterprise, so use of materials for teaching and learning at a non-profit institution can make a fair use claim more likely;

NATURE - This factor has generally been held to mean elements such as published versus unpublished, fiction versus non-fiction, print versus non-print (e.g. tape, CD). Since facts are not copyrightable and non-fiction material is more factual than fiction, then non-fiction material is more likely to meet fair use standards. And since non-print material can be a complex mix of created elements as opposed to the more singular creation of the printed word, the print material would be more likely to be found as meeting fair use;

AMOUNT - The federal law gives no specific amount or even general amount of material that meets fair use standards. Generally, the smaller the amount to be considered for fair use relative to the total work it is extracted from the better chance it will be found as fair use. However, even a small amount of a large work can be the essence of that large work and thus may not be eligible for fair use. This is particularly applicable to illustrations and video material;

EFFECT - Effect generally means market effect. Thus, if the material can be purchased as opposed to copying, then fair use may not be justified.

It is the responsibility of the employee to weigh each of the four (4) factors and determine if fair use in that particular instance of copying would be justified.

- Computer software: only authorized persons may copy computer software. The Chancellor or designee may authorize the copying of computer software. The District will comply with federal copyright laws and any agreement entered into by and between the District and a vendor. Under no circumstances may students be permitted to copy computer software.
- Other materials:
  1. Commercial audiotapes, CD's, or visual materials should not be duplicated without permission from the producers;
  2. Employees should not use college equipment or provide technical assistance to play home video programs purchased or rented from retail stores, video clubs, or other sources.
  3. Employees should not record public performances without proper approvals.
- Any doubt as to the legality or propriety of a contemplated use or reproduction of copyrighted material shall be referred to the area administrator.

- For the purposes of this procedure, a “work” is any material which is eligible for copyright protection, including but not limited to books, articles, dramatic or musical compositions, poetry, instructional materials, multimedia programs, fictional or nonfictional narratives, analyses, (e.g. scientific, logical, opinion or criticism), works of art or design, photographs or films, video or audio recordings, computer software, architectural and engineering drawings, and choreography which relates, at the time of its conception, to any aspect of a staff member’s employment with the District. A work may be recorded in any enduring medium (e.g., print, electromagnetic, optical, photosensitive film, digital media), or may exist in any tangible form (e.g. a sculpture, painting, structure or building).

Revised: 12/01/2006; 7/25/2005

Adopted: 7/21/2004