

Flathead Valley Community College BOARD POLICY MANUAL

Subject: ACADEMICS / LIBRARY

Policy: 501 - Copyrighted Materials

Effective: August 8, 1988

I. Purpose

It is the policy of Flathead Valley Community College to conform to existing United States Copyright Laws and to maintain the highest possible ethical standards in college use for copyrighted materials.

Copying materials for instructional purposes is allowed under the provisions of the Fair Use Doctrine. The following Guidelines are an attempt to provide College employees with guidance when copying materials for educational use. Copyright laws are complex and interpretation of provisions may change from time to time. When a reasonable doubt exists, employees shall obtain written permission from the copyright holder before taking any action to copy materials.

II. Fair Use

Many cases of perceived copyright violations are determined on the basis of the concept of "fair use" as outlined below.

A. Criteria

- Purpose and character of use
- Nature of copyrighted work
- Amount of portion used in relation to whole
- Effect on potential market for or value of copyrighted work

B. Guidelines

- All copies to be used for educational purposes only;
- Copies may not be distributed in a general manner;
- Copies may not be sold or performed for a profit.

C. Duration

The duration for copyrighted materials is the life of the author plus 50 years.

III. Liability

Normal penalties for copyright infringement range from \$25 to \$10,000 in statutory damages for each violation. That penalty increases to \$50,000 for each willful violation undertaken for financial gain.

IV. Exclusive Rights

A. The owner has the following exclusive rights:

- To reproduce the copyrighted work;
- To prepare derivative works;
- To distribute copies;
- To perform the work publicly;
- To display the work publicly.

B. There are limitations on the above exclusive rights. "Fair Use" of a copyrighted work, including such use by reproduction in copies or such by any means, for purposes such as the following is not an infringement of copyright:

- Criticism
- Comment
- News Reporting
- Teaching (including multiple copies for classroom use)
- Scholarship
- Research

C. In determining whether the use made of a work in any particular case is a fair use, four factors to be considered shall include:

- the purpose and character of the use, including whether such 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 in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market for or value of the copyrighted work. The courts generally view this last factor with the most weight when judging a possible infringement case. A question you should ask yourself before using copyrighted material is "How obtainable is permission from the producer to copy?" Simply, the fair use of a copyrighted work is not an infringement of copyright. The fair use doctrine is deliberately imprecise so as to have a versatile, flexible rule for service to a great variety of situations.

D. The following are not infringements of copyright:

- Performance or display of a work by an instructor or student;
- Face-to-face instruction in a place devoted to instruction;
- Material being presented is a legally obtained copy.
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V. Printed Materials

A. Single copies of the following may be produced:

- A chapter of a book.
- An article from a periodical or newspaper.
- A short story, essay, or poem, whether or not from a collective work.
- A chart, graph, diagram, cartoon, or picture from a book, periodical, or newspaper.

B. Multiple copies of the following may be reproduced:

- Complete poem if less than 250 words.
- An excerpt from a longer poem, not exceeding 250 words.
- Complete article less than 2,500 words, or excerpt not more than 1,000 words.
- One chart, graph, diagram, drawing, cartoon, or picture per book or periodical issue.
- Special works combining illustrations, poetry, and prose, but limited to no more than 10% of the total.
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C. Copying may occur for a single class on the initiative of an instructor/administrator when copyright clearance permission is unreasonable provided that:

- only one work from a single author.
- no more than three authors from collective works.
- no more than nine instances of copying in one College term.
- Copying is prohibited in the following areas:
 - Consumable works, such as standardized tests, workbooks, exercises, test booklets, and answer sheets.
 - Copying to create, replace, or substitute for anthologies or collective works.
 - Reproducing the same item from term to term.

E. Current news periodicals, newspapers, and current news sections of other periodicals are exempt for the above restrictions.

VI. Audio (Records, Discs, Audio Tape Recordings)

A. Single copies of the following may be made:

- A portion of a sound recording for a student used only in an educational context.
- Recording of performances by students for evaluation or rehearsal purposes. This copy may be retained by the College.
- B. Multiple copies
- Prior to making multiple copies of a sound recording, written permission shall be secured from the copyright holder.

C. Limitations

- Duplication of cassette tapes is prohibited unless reproduction rights are held from the time of the original purchase.
- Reproduction or conversion of musical works from one form to another, i.e.; records to cassette tapes is prohibited.
- Reproduction of an audio work in its entirety is prohibited.
- Narrating entire stories onto an audio tape is prohibited.

D. Exemptions

A performance or recording in which sounds are imitated is excepted. Imitation does not constitute copyright infringement.

VII. Films - Slides

A. Single copies of the following may be made:

- A portion of copyrighted film or filmstrip only if the material is owned by the College and made by the student.
- A portion of copyrighted film or filmstrip which is not owned by the College for educational purposes.
- An overhead transparency from a single page of a consumable workbook.

B. Additionally, the following may be created:

- A series of slides from multiple sources.
- Multiple overhead transparencies from a variety of sources.
- Excerpting sections from a filmstrip to create slides.
- Selective slides from a slide series.
- Excerpting sections of a 16 mm film for use in a locally produced videotape, not shown on cable television.

C. Limitations

- Limited to 10% of any one source;
- Prohibited if the source being copied specifically prohibits any reproduction;
- Any copy, reproduction, or portion may not contain the very essence of the material in question;
- Films may not be shown on Closed Circuit TV outside the building;
- A portion of a film, filmstrip, or videotape may not be copied when it is:
 - sent to a school for preview or rent;
 - owned by another school or institution.

VIII. Video

A. Pre-recorded Videotapes

- If the College purchases a copy labeled "For Home Use Only", it is permissible to use tape for "face-to-face" instruction if:
 - It is incorporated as part of the systematic teaching activities of the program in which it is used;
 - No copying is allowed.
- If the College rents a copy labeled "For Home Use Only", it should not be used unless the user can obtain a written release from the rental agency granting permission for use in instruction.
- Satellite-delivered Subscription Services (HBO, Showtime, etc.) are viewer supported and intended for private/home use only. Therefore, these are not to be copied or used in the classroom.
- An employee may not rent a video for home use and bring it into the classroom for use with students.

IX. Ten-Day Fair Use

- A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by the College for a period not to exceed forty-five (45) consecutive calendar days after date of recording. Upon conclusion of such 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.
- Off-air recordings may be used once by individual instructors 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 homes of students receiving formalized home instruction during the first ten (10) consecutive school days in the forty-five (45) calendar day retention period.
- Off-air recordings may be made only at the request of and used by individual instructors 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 instructor, regardless of the number of times the program may be broadcast.
 - A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of instructors under these guidelines. Each such additional copy shall be subject to all provisions of the original recording.
 - After the first ten (10) consecutive school days, off-air recording may be used up to the end of the forty-five (45) calendar day retention period only for instructor evaluation purposes, i.e., to determine whether or not to include the broadcast program in the teaching curriculum and may not be used for student exhibition or any other non-evaluation purpose without authorization.
 - Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.
 - All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.

X. Compliance, Non-Compliance and Enforcements

- A. Employees and students are subject to disciplinary action under College policy and regulations and as outlined in the Faculty Bargaining Agreement, Classified Employees Collective Bargaining Agreement, and College Catalog in addition to any civil or criminal penalties which may be imposed as a result of vendor action.
- B. The legal or insurance protection of the district will not be extended to employees who violate copyright laws.