

It is the intent of the Governing Board of the Mohave Community College district to adhere to the provision of the U.S. copyright law (Title 17, United States Code, Section 101 et. seq.), including the Digital Millennium Copyright Act (DCMA) and the Technology Education and Copyright Harmonization Act (TEACH Act), and other federal copyright laws as they are adopted. The College will develop guidelines that clearly discourage violation of copyright law and inform employees and students of their rights, responsibilities and possible civil and criminal penalties in accordance with that law.

To ensure compliance with copyright law, the college will implement the following measures:

1. The college will provide information and/or train faculty, staff and student about copyright compliance.
2. The college will provide notice to students that materials used in connection with a course may be subject to copyright protection.
3. The college will maintain technology-based deterrents to protect against illegal digital transmissions.
4. The college will promote legal alternatives to copyrighted content and will make those available to faculty, staff and students.
5. The college will maintain consumer information related to copyright and inform faculty, staff and students about possible sanctions. This notice will be sent to students annually via U.S. mail or e-mail and will include:
 - a. An explicit notice that unauthorized distribution of copyrighted material, including P2P file-sharing, may subject the user to criminal and civil liabilities.
 - b. A summary of the penalties for violating Federal copyright law.
 - c. A description of the institutions policies regarding P2P files sharing and disciplinary actions.
6. On a case-by-case basis, the college will discipline faculty, staff and students who violate copyright law, college policy, the employee handbook, and/or the student code of conduct according to the severity of the infringement.

Date of Adoption: Adoption of Manual- July 2008

*References: Title 17, United States Code, Section 101 et. seq.
Digital Millennium Copyright Act (DCMA)
Technology Education and Copyright Harmonization Act (TEACH Act)*

Specific Guidelines for Using Copyrighted Materials

It is the intent of the Governing Board of the Mohave Community College district to adhere to the provision of the U.S. copyright law (Title 17, United States Code, Section 101 et. seq.), including the Digital Millennium Copyright Act (DCMA) and the Technology Education and Copyright Harmonization Act (TEACH Act), and other federal copyright laws as they are adopted. The College will develop guidelines that clearly discourage violation of copyright law and inform employees and students of their rights, responsibilities and possible civil and criminal penalties in accordance with that law.

Specific Guidelines for Using Copyrighted Materials

1. The amount of a work disseminated should be no greater than what is needed for the particular educational use.
2. Copies of copyrighted works should include proper attribution and copyright notices.
3. Access to the portion of a course Web site containing copyrighted materials should be limited to students enrolled in the course or other individuals requiring access to the course materials for purposes of conducting the course. This can be achieved through the use of passwords or other technological means.
4. Student access to copyrighted content should terminate when the student has completed the course.

Works Not Protected By Copyright

Common examples of works not protected by copyright include, but are not limited to:

1. Works for which copyright protection has expired are not protected by copyright. This includes all works published in the U.S. prior to 1923, works published prior to 1989 without a copyright notice, and works for which a required renewal was not obtained, typically works published prior to 1963. Any work published after 1989 is subject to copyright, even if the work does not have a copyright notice or copyright symbol.
2. All works published by the Federal Government are in the public domain.

Instructors and students can use sources not protected by copyright, also known as works in the public domain. No additional licensing or permissions are required to use works in the public domain. However, instructors or students using works in the public domain are still required to: 1. Confirm that the source is in the public domain 2. Attribute credit to the original source material

Assistance in determining whether a work has passed into the public domain can be obtained by e-mailing askalibrarian@mohave.edu.

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Copyright

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General Guidelines – Learning Management System

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General Guidelines for using Copyrighted Materials through the Learning Management System (LMS)

Mohave Community College supports instruction with electronic reserves or similar electronic services. The function of these electronic services is to assure that students and instructors have access to course-related library resources.

1. All instructors must announce when materials are copyrighted and that students may not copy, distribute, exhibit or otherwise share copyrighted materials. This announcement will be made in the syllabus and in the learning management system.
2. Materials made available on electronic reserves will include a citation or link to the original source of publication and a form of copyright notice.
3. Students should be instructed to return or destroy copyrighted materials when its classroom purpose has been served, no later than the end of the semester.
4. The instructor, library or other unit of the institution must possess a lawfully obtained copy of any material submitted for electronic reserves. If the instructor is relying on the fair use exception for material that is not licensed by the college and is under copyright, instructors should confer with their librarian to verify if fair use applies to the content.
5. Access to course material on electronic reserves should be restricted by password to students and instructors enrolled in and responsible for the course. Access should be terminated as soon as the student has completed the course.
6. Library reserves staff should check to see whether materials submitted for electronic reserves are available through an electronic database or are otherwise legally available. If so, staff should provide a link rather than scanning and posting the material.
7. The course instructor or administrator will expire or delete materials available on electronic reserves after the content has achieved its academic purpose, not to exceed one semester.

General Guidelines – Learning Management System

8. Instructors are responsible for evaluating, on a case-by-case basis, whether the use of a copyrighted work on electronic reserves requires permission or qualifies as a fair use.

9. Instructors at Mohave Community College will impose no charge to students for access to materials on electronic reserves.

The following content is allowed for use in the LMS:

1. All material created by professors such as syllabi, lectures and lecture notes, exams, study guides, or other similar content.
2. Any item not under copyright.
3. Any item licensed by the library or another department for college-wide use.
4. Any item that falls under the TEACH Act or the fair use exceptions (see 2.027.13 TEACH Act and 2.027.14 Fair Use).

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Guidelines for using Copyrighted Resources available through the MCC Libraries' Online Databases

The Mohave Community College Libraries have already paid for subscriptions to many electronic journals that entitle the MCC community to online access and permit the use of these materials in courses. In general, the MCC databases are licensed solely for the use of the individual patron and licensing party. Articles, journals and other licensed content cannot be shared with anyone outside the MCC community unless they have been requested through the Interlibrary Loan process. Individual journals or articles may have more restrictive policies.

Instructors and students can use sources which the MCC Libraries have licensed so long as they:

1. Research the license for the source and confirm that the use of the excerpt does not exceed the terms of the license
2. Attribute credit to the original source material

Faculty and students can verify individual licenses by checking the “Terms and Conditions” section of the electronic journal and the copyright notice on an individual article. Assistance in determining the license for a database, a journal or an individual article can be obtained by e-mailing askalibrarian@mohave.edu

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Guidelines for using all other Copyrighted Journals or Articles (not available through the MCC Libraries)

Instructors can use sources for which the MCC Libraries have not purchased licenses. However, these items should be handled on an item-by-item basis and should be treated differently from content licensed by the MCC Libraries. To use copyrighted journals or articles which are not licensed by the MCC Libraries, instructors should:

1. Research the license for the source and confirm that the use of the excerpt does not exceed the terms of the license.
2. Confirm that the use of the content in the classroom does not exceed the Fair Use exception.
3. Get permission from copyright holder if permission is necessary.
4. Pay for a license for the content if any additional licensing fee is necessary.
5. Attribute credit to the original source material.
6. If costs are prohibitive, seek out substitute materials.

Guidelines for using Films, Music and other Copyrighted Content

Fair Use dictates that the only time a film may be shown on campus is when an instructor is showing a film to an officially registered class at the college. This is true regardless of the number of people who attend and/or whether or not admission is free. These guidelines apply, but are not limited to, class rooms (while not in use for officially registered classes); lecture halls; library screening rooms; and/or meeting rooms. Additionally, content that is allowed in on-ground classes might not be allowed in distance education classes in accordance with the TEACH Act.

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Guidelines – Classrooms: Ground, Online, Hybrid

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Guidelines for instructors of on-ground classes

1. Full-length films on a hard copy, such as a DVD, can be shown in an on-ground classroom. Only students enrolled in the course and the instructor should be present in the class during the showing of the video. Additionally, the class may not be taped or recorded. This class may also not be streamed to students in a hybrid or online class.
2. Clips from YouTube, Vimeo and other video websites can be accessed through a direct link in the LMS. Linking does not create another copy of the content and does not infringe on the copyright.
3. Full-length digital videos from Netflix, Amazon Prime, Hulu and other online video companies may possibly be used in your class. Online content providers license their content to subscribers, and this license is different than showing a hard copy DVD in class. It has not yet been determined legally that using online content in an on-ground class constitutes Fair Use, so the instructor will need to determine if the content is allowed for classroom use by either checking the license or by contacting the library at askalibrarian@mohave.edu.
4. Links to online content that are knowingly illegal or infringe upon copyright cannot be used in a class at any time.

Guidelines for instructors of hybrid or online classes

The law treats on-ground classes and online classes differently in regards to rules for showing video content. Although the law allows DVDs and properly licensed content to be shown in an on-ground class, it does not allow this in an online class.

1. Lectures that contain only course content and also contain no copyrighted content may be recorded and shared with online students at any time.
2. Clips, full-length videos, cartoons and music and any other copyrighted content cannot be streamed to online classes without prior permission and/or licensing, even if the terms of the license allow for the exact same content to be used in an on-ground class.

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Copyright guidelines for all other campus activities including, but not limited to, educational outreach, student clubs and student activities sponsored by MCC

All other campus activities are not covered by Fair Use because they do not qualify as an instructor showing a film to an officially registered class at the college.

Movies may be permitted to be viewed off-campus to a private audience. However, no public announcement or advertising may occur as it turns the private audience into a public one (even if the viewing still occurs in a private residence) because a public announcement or advertising makes the movie subject to public performance guidelines.

DVDs and video tapes may not be used as an event or entertainment, even if they have been legitimately purchased, unless the public performance rights (copyright) has been purchased or secured by doing one of the following:

1. Get permission from copyright holder.
2. Pay for a license through the Copyright Clearance Center.

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Guidelines for Copying or Re-Using Print Materials

All public copy machines, such as the copy machines in the libraries, should have a Register's Notice posted near the machine:

The copyright law of the United States (Title 17, United States 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 reproductions. One of these specific 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 requests or uses a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement. A library or archive may refuse to accept a copying order if, in its judgment, fulfillment of the order would involve a violation of copyright law.

Additionally, the following activities are prohibited by copyright law:

1. Making multiple copies of different works that could substitute for the purchase of books, publisher's reprints, or periodicals.
2. Copying and using the same work from semester to semester.
3. Copying and using the same material for several different courses at the same or different institutions.

Options when an educational resource or excerpt exceeds Fair Use

If a material you are using for a course exceeds the Fair Use exception, use the following procedures:

1. Provide a link directly to the material. Linking does not involve the creation of additional copies and therefore cannot constitute copyright infringement. Much material is available for free from legitimate Web sites such as open archives or open access journals or available under a Creative Commons <http://creativecommons.org/about/licenses/meet-the-licenses> or similar license.
2. Get permission from copyright holder.
3. Pay for a license through the Copyright Clearance Center.
4. If costs are prohibitive, seek out substitute materials.

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**Copyright
Guidelines – Copying and Fair Use**

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Creative Commons Licensing and other licenses where the author chooses not to copyright his/her work

Creative Commons licenses may have different guidelines depending on the intent of the content creator. Each of these licenses allows the work to be used in different ways with varying degrees of strictness:

1. Attribution – this allows any person to distribute, remix, tweak, change or build upon a work for any purpose (including commercial purposes) so long as the original creator is credited.
2. Attribution-ShareAlike – This license allows all of the changes allowed under Attribution so long as the original creator is credited and the new content is shared with the same exact license as the original content.
3. Attribution-NoDerivs – This license allows for distribution, commercial and non-commercial, as long as the original content is not changed and the creator is credited.
4. Attribution-NonCommercial – This license allows all of the changes allowed under Attribution so long as the original creator is credited and the new content is used for non-commercial purposes. Unlike Attribution-ShareAlike, this new content does not have to carry the exact same license as the original
5. Attribution-NonCommercial-ShareAlike - This license allows all of the changes allowed under Attribution so long as the original creator is credited and the new content is used for non-commercial purposes. The new content must carry the same exact license as the original content.
6. Attribution-NonCommercial-NoDerivs – This license allows for only non-commercial use and only as long as the original content is not changed and the creator is credited.

GNU GPL is similar to a Creative Commons license but it applies to software. It allows the following four freedoms: 1. the freedom to use the software for any purpose; 2. the freedom to change the software to suit your needs; 3. the freedom to share the software with your friends and neighbors; 4. the freedom to share the changes you make

Mohave Community College supports the use of Creative Commons and other licenses which promote the use and distribution of creative materials (e.g. GPL licenses for freeware, CC0 licenses to automatically put a new work in the public domain) so long as the material complies with the student code of conduct and/or the employee handbook.

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**Copyright
Creative Commons Licensing**

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The TEACH Act

The TEACH Act (Section 110(2) of U.S. copyright law) allows instructors of hybrid or online classes to perform or display copyrighted material in distance education environments under specific conditions. The TEACH act allows for:

1. Performances and displays of many types of copyrighted works
2. Transmission of digital content to students enrolled in an online or hybrid course
3. Storage of copyrighted content for brief periods of time, for example during transmission of the content
4. Digitization of clips of print or analog works used in authorized transmission to students enrolled in a course if there is no existing digital version or the digital version is protected by technological measures. In this case, the work must be used solely for the classroom and must expire once its classroom purpose has been served.

The TEACH Act does not cover:

1. Electronic reserves, printed course packs, or Interlibrary Loan.
2. Commercial document delivery
3. Textbook, e-books, or other digital content that is under copyright or licensed by the author, publisher, or other party.

In order for content to be eligible for the TEACH Act, many complex requirements must be followed by the instructor and the college:

1. The content can only be used at an accredited, nonprofit educational institution to students registered to a specific class.
2. Only lawfully acquired or licensed copies may be used. If the content has need been lawfully acquired or is not licensed, the instructor must follow 2.027.09 Guidelines for instructors of hybrid or online classes
3. The use of the work must be supervised by the instructor

4. The work must be integral to the classroom and must directly relate to course material
5. The work must be limited to the amount required for the classroom or 10% of the whole work, whichever is smaller
6. The college must implement reasonable technological measures to ensure that the material is not downloaded, distributed, printed, copied, exhibited, or otherwise shared and used outside of the classroom. Measures to ensure compliance include password protection, content time outs, IP ranges, print disabling, link expiration, file size monitoring, etc.

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Fair Use

Copyright law establishes a zone of “Fair Use” protection for copying or disseminating copyrighted works for teaching purposes without obtaining permission from the copyright owner under certain circumstances. Four factors decide whether the use of copyrighted material falls under Fair Use. The four factors are:

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

When the sum of all factors weighs in favor of Fair Use, you are able to use the materials without obtaining permission from the copyright holder. No single factor — such as your previous use of the copyrighted material, use of an entire copyrighted work, unpublished status of the copyrighted material, revenue generation or educational use — is dispositive.

Fair Use is an exception to Copyright law and all Fair Use cases are up for interpretation. If there is any doubt the instructor or student should treat the content as though the Fair Use exception does not apply.

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File-Sharing Copyrighted Content

File-sharing is the process of exchanging any files over the internet. This includes FTP servers and programs, Internet Relay Chat (IRC), Peer-to-Peer (P2P) programs like KaZaA, LimeWire, BitTorrent, etc. The process of file-sharing is not illegal. However, almost all P2P usage is against the law because it involves users sharing copyrighted materials without permission from the copyright holder, including music, movies, TV programs, books, images, etc.

Individuals who download or upload copyrighted content without permission are violating copyright and are liable to be sued, regardless of whether they violate copyright knowingly or unknowingly.

Sharing copyrighted files via P2P networks may also violate the student code of conduct and/or employee handbook, and violators will be disciplined with due process outlined by the college for violating these agreements.

The Digital Millennium Copyright Act

The Digital Millennium Copyright Act (DMCA) protects the college by providing “limitations for service provider liability relating to material online.” It details a college’s responsibilities to provide Internet service.

The DMCA allows for:

1. The college may only provide users with connections to transfer files legally.
2. As an Internet Service Provider, the college is protected from copyright lawsuits related to the DMCA so long as the college is compliant with the DMCA.

To be complaint with the DMCA:

1. The college will respond to DMCA complaints made by copyright holders.
2. The college will guarantee that the transfers have ceased if illegal file-sharing is detected
3. The college will terminate Internet services for repeat infringers or upon receipt of the third DMCA complaint.

4. The college will not remove Digital Rights Management copy protection from any software or content unless there is a specific, legal exception such as those outlined by the Americans with Disabilities Act.

Depending upon the severity of the infringement, users who violate the DMCA may not receive multiple DMCA complaints. A first-time offense does not preclude a user from receiving a pre-litigation letter or being sued directly.

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