

The purpose of the Southeastern Illinois College (“SIC”) Copyright Compliance Policy is to provide guidelines and procedures for copyrighted works. Employees and students are expected to abide by the laws that govern copyright and intellectual property rights. Failure to comply with this policy or the laws of the State of Illinois or the federal government may result in disciplinary action.

The goal of this policy is to provide SIC students and employees with a standard approach for addressing complex copyright issues. Other SIC policies and negotiated agreements may complement this policy.

This policy provides practical advice and procedures on copyright-related matters. Questions regarding this policy or copyright compliances should be addressed to the Academic Resource Specialist or the Associate Dean of Learning Commons.

### **What is Copyright?**

Copyright is an area of law that provides creators and distributors of creative works with an incentive to share their works by granting them the right to be compensated when others use those works in certain ways. Specific rights are granted to the creators of creative works in the U.S. Copyright Act (title 17, U.S. Code). If you are not a copyright holder for a particular work, as determined by the law, you must ordinarily obtain copyright permission prior to reusing or reproducing that work. However, specific fair use exceptions exist in the Copyright Act for academic uses.

### **What is protected by Copyright?**

The rights granted by the Copyright Act are intended to benefit “authors” of “original works of authorship,” including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, audiovisual and electronic/digital creations. Most creative work including books, magazines, journals, newsletters, maps, chart, photographs, graphic materials, and other printed materials; and non-print materials, including electronic content, computer programs and other software, sound recordings, motion pictures, video files, sculptures, and other artistic works—is protected by copyright. Among the exclusive rights granted to those “authors” are the rights to reproduce, distribute, publicly perform and publicly display their works.

These rights provide copyright holders control over the use of their creations and an ability to benefit, monetarily and otherwise, from the use of their works. Copyright also protects the right to “make a derivative work,” such as a movie from a book; the right to include a work in a collective work, such as publishing an article in a book or journal; and the rights of attribution and integrity for “authors” of certain works of visual art. Copyright law does not protect ideas, data or facts.

In the U.S., the general rule of copyright duration for a work created on or after January 1, 1978 is the author’s life plus 70 years after the author’s death. This is often referred to as “life-plus-70.”

Works created by companies or other types of organizations generally have a copyright term of 95 years. For more information on copyright duration, visit [www. Copyright.gov/circl.html#hlc](http://www.Copyright.gov/circl.html#hlc).

### **Creation of Copyrighted Works**

Works created by employees on college time, college equipment or both, unless otherwise negotiated in a bargaining agreement, are considered to be authored by and property of SIC and thus SIC would be the copyright holder.

For students, copyright is retained by the student unless the work is commissioned by the college or created as part of the student's duties as a student worker.

### **Music Guidelines**

SIC pays license fees to three separate music licensing companies. These companies are Broadcast Music, Inc. (BMI), the American Society of Composers, Authors and Publishers (ASCAP), and Society of European Stage Authors and Composers (SESAC). The license fees allow the college to publicly perform the copyrighted musical works of covered artists, not only for educational purposes, but also for entertainment purposes. The licensing fees do not cover campus radio stations, but do cover other public performances, such as live bands, DJs, or environmental music. To view a catalog of songs that fall under these agreements, please visit:

1. <http://repertoire.bmi.com/startpage.asp>
2. <http://www.ascap.com/ace/>
3. <http://www.sesac.com/>

Please use these web addresses to confirm whether music can be publicly performed prior to any public broadcast. Also be aware that all music used under these guidelines must be legally obtained.

### **Fair Use**

A provision for fair use is found in the Copyright Act at Section 107. Under the fair use provision, a reproduction of someone else's copyright-protected work is likely to be considered fair if it is used for one of the following purposes: criticism, comment, news reporting, teaching, scholarship and research. If the reproduction is for one of these purposes, a determination as to whether the reproduction is fair use must be made based upon four factors:

1. The purpose and character of use (principally, whether for commercial or nonprofit educational use);
2. The nature of the copyright-protected work;
3. The amount and substantiality of the portion used; and
4. The effect of the use being evaluated upon the potential market for or value of the copyright-protected work.

The fair use provision does not state exactly what uses of a copyrighted work will be considered fair uses under the law and may therefore be used without obtaining permission. As such, how much reproduction may be considered fair use remains unclear. Fair use requires a circumstance-specific analysis as to whether a particular use or reuse of a work may indeed be considered fair use.

To avoid confusion and minimize the risk of copyright infringement, SIC interprets the following situations as fair use:

- Quotation of short passages in a scholarly or technical work for illustration or clarification of the author's observations.
- Reproduction of material for classroom use where the reproduction is unexpected and spontaneous – for example, where an article in the morning's paper is directly relevant to that day's class topic. This would generally cover one time use in only one semester.
- Use in a parody of short portions of the work itself.
- A summary of an address or article, which may include quotations of short passages of the copyright-protected work.

If your use does not meet the above criteria and the work is protected by copyright, College policy requires you to obtain permission to use the work for the copyright holder or its agent.

Alternatively: Refer to the [Fair Use Checklist](#) at

[http://www.copyright.com/Services/copyrightoncampus/basics/fairuse\\_list.asp](http://www.copyright.com/Services/copyrightoncampus/basics/fairuse_list.asp) for Guidelines on Determining Fair Use.

### **Types of Use Classroom Handouts**

Classroom handouts fall into two categories; those that require permission and those that do not. If the handout is a new work for which you could not reasonably be expected to obtain permission in a timely manner and the decision to use the work was spontaneous, you may use that work without obtaining permission. However, if the handout is planned in advance, repeated from semester to semester, or involved works that have existed long enough that one could reasonably be expected to obtain copyright permission in advance; you must obtain copyright permission to use the work.

### **Coursepacks**

All articles, chapters and other individual works in any print or electronic coursepack require copyright permission. Copyright permission for coursepacks is usually granted by academic period (e.g. semester, etc.). To reuse a coursepack in subsequent academic periods, unless you have documented future permission, you need to obtain permission again. Rights to use a coursepack are normally given if the publishers text, both print and electronic versions are required to be purchased by the student. In most cases coursepacks are specific to the text. If the text is changed, and the instructor wishes to continue using the materials, copyright permission should be obtained. Many copyright holders provide time-sensitive permission because their own rights may be time-sensitive and could be transferred to different copyright holders at any time. Deferring responsibility of obtaining copyright permission will not provide you protection against a claim of copyright infringement.

### **Library Reserves**

If the SIC library owns a copy of a publication, the library may place that copy on reserve without obtaining copyright permission. If the library wishes to reproduce additional copies of a work and place them on reserve for student to review, in either paper or electronic format, the library must obtain copyright permission.

### **Photocopying in the Library**

It is permissible to photocopy copyright-protected works in the SIC library without obtaining permission from the copyright owner, under the following circumstances:

- **Library user requests for articles and short excerpts.** At the request of a library user or another library on behalf of a library user, the SIC library may make one reproduction of an article from a periodical or small part of any other work. The reproduction must become the property of the library user, and the library must have no reason to believe that the reproduction will be used for purposes other than private study, scholarship and research. As recommended by Section 108 of the Copyright Act, the library must display the register's notice at the place library users make their reproduction typically a copy machine or printer.
- **Archival reproductions of unpublished works.** Up to three reproductions of any unpublished work may be made for preservation or security or for deposit for research use in another library or archive. This may be a photocopy or digital reproduction. If it is a digital reproduction, the reproduction may not be made available to the public outside the library or archive premises. Prior to receiving any of the three reproductions permitted under this provision from another library or archive, the SIC library must make a reasonable effort to purchase a new replacement at a fair price. The reproducing library or archive must also own the work in its collection.
- **Replacement of lost, damaged or obsolete copies.** The SIC library may make up to three reproductions, including digital reproductions, of a published work that is lost, stolen, damaged, deteriorating or stored in an obsolete format. Any digital reproductions must be kept within the confines of the library (that is, available on library computers but not placed on a public network.)
- **Library user requests for entire works.** One reproduction of an entire book or periodical may be made by the library at a library user's request, or by another library on behalf of a library user upon certain conditions being met. These conditions include the library determining after reasonable investigation that an authorized reproduction cannot be obtained at a reasonable price. Once made, the reproduction becomes the property of the library user. The library must have no reason to believe that the reproduction will be used by the user for purposes other than private study, scholarship and research, and the library must display the register's notice at the place library users make their reproduction requests to the library.

### **Photocopying by Students**

Photocopying by students is subject to a fair use analysis as well. A single photocopy of a portion of copyright-protected work, such as a copy of an article from a scientific journal made for research, may be made without permission. Photocopying all the assignments from a book recommended for purchase by the instructor, making multiple copies of articles or book chapters for distribution to classmates, or copying material from consumable workbooks, all require permission from the copyright holder. The library is not responsible for monitoring the material that the student is copying.

### **Document Delivery Services**

The U.S. Copyright Act give libraries the right to use copyrighted works under certain circumstances, including scanning print material for patrons, and delivering it electronically. The service relies on the fair use provision included under section 107 of the U.S. Copyright Law and

the quantity is treated in the same manner as printed material unless the work is in the public domain.

### **Interlibrary Loans (ILL)**

The SIC library may participate in interlibrary loan services without obtaining permission provided articles or items received by the patron do not substitute for a periodical subscription or purchase of a work. Interlibrary loan services rely on the fair use provision under section 107 of the U.S. Copyright Law.

If the articles or items being copied have been obtained electronically through a digital license, the license may or may not interlibrary loan of its digital resources.

### **Distance Education and Learning Management Systems**

In 2002, the Technology, Education and Copyright Harmonization (TEACH) Act became law and expanded the latitude universities, including SIC, have for the performance and display of copyright-protected materials in a distance education environment, including through the use of Learning Management System (LMS) for online course delivery.

The copyright requirements for TEACH and online course postings are similar to those of classroom handouts, but extend the traditional rules for those handouts to the digital transmission of materials to students. If the use is spontaneous and will not be repeated, copyright permission is not required; however, the content may not remain posted for extended periods of time. If the use is planned, repeated or involves works that have existed long enough that one could reasonably expect to receive a response to a request for copyright permission, you must obtain copyright permission. Additionally, access of digital materials is limited to those currently enrolled in the class.

### **Copyright and Foreign Works**

The U.S. is a member of the leading international copyright treaty, the Berne Convention. As such, when SIC uses a copyright-protected work from another country, the protections provided to works by U.S. copyright law automatically apply to the use of that work as well (assuming the use takes place in the U.S.). Copyright Clearance center has many reciprocal licenses to allow use of materials from other countries.

### **How to Obtain Copyright Permission**

Permission to use copyright-protected materials should be obtained prior to using those materials. It is best to obtain permission in writing (including email).

Once the requester has identified the materials they want to use and determined copyright permission is required, the requester must locate the copyright holder. If the copyright holder is not listed on the work, locating the appropriate person or entity to grant permission may take some investigative and creative work.

The Copyright Office of the Library of Congress ([www.loc.gov](http://www.loc.gov)) may be of assistance in locating a copyright owner if the work is registered. Note, however, copyright is automatically granted to all works upon their being written down and registration with the Copyright Office is not required.

There are two primary options for obtaining permission to use the work. The requester may contact the copyright holder directly or may contact Copyright Clearance Center ([www.copyright.com](http://www.copyright.com)).

The time to obtain permission may vary and, where possible, it is recommended to start the permission procedure at least six months prior to the time you wish to use the materials. If you need quicker permission, let the copyright owner know and he/she may be able to get back to you more quickly. Often, Copyright Clearance Center is your quickest one-stop resource for obtaining copyright permission.

### **Information in you Permission Request**

The copyright holder or its agent will require the following information in order to provide you with permission:

- Title of the material
- Creator/author of the material
- Publisher of the material
- Description of material
- ISBN or ISSN, if applicable
- Date of publication, if applicable
- Purpose for which you wish to reproduce the item (research, commercial, educational, etc.)
- How the material is to be reproduced (e.g., photocopied, digitalized)
- Where the reproduced material will be used or will appear
- Length of time you are requesting permission to use the material

### **Reporting Suspected Infringements**

If a college employee suspects copyright infringement, including student violations, immediately report the information to your supervisor or division chair.

If a student suspects copyright infringement, they should report the information to the appropriate instructor.

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