



COPYRIGHT POLICY

Brunswick Community College (BCC) is committed to ensuring that students, faculty, and staff respect intellectual property, abide by US copyright law, and responsibly use fair use provisions in their College-related activities.¹ BCC requires compliance to US Copyright Law, and specifically to the Copyright Term Extension Act (CETA), Digital Millennium Copyright Act (DMCA), Technology, Education and Copyright Harmonization Act (TEACH Act), and Fair Use guidelines.

Any BCC employee or student that does not adhere to US Copyright Law (as defined below) and this policy will be subject to disciplinary actions, either through employee or student disciplinary procedures.

PROCEDURES

I. Definitions

A. Intellectual Property

Intellectual property (IP), as defined by the World Intellectual Property Organization (WIPO), refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, or names and images used in commerce. IP is protected in law by, for example, patents, copyright and trademarks, which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance between the interests of innovators and the wider public interest, the IP system aims to foster an environment in which creativity and innovation can flourish.²

B. US Copyright Law

The Copyright Act of 1976 (Title 17 of the US Code), as amended by subsequent provisions (chiefly the Copyright Term Extension Act and the Digital Millennium Copyright Act), is the primary basis for copyright law in the United States. The law can be accessed, in its entirety, via the US Copyright Office.³ In brief, copyright law protects creative *expressions* (as opposed to creative ideas), endowing copyright holders with the exclusive right to do, and to authorize others to do, the following:

¹ For an excellent overview of US copyright law, please see the *Copyright Crash Course* from the University of Texas Libraries: <http://guides.lib.utexas.edu/copyright>.

² <http://www.wipo.int/about-ip/en/>.

³ <https://www.copyright.gov/title17/>.

1. Reproduce the work.
2. Prepare derivative works based on the work.
3. Distribute copies of the work to the public by sale or other transfer of ownership, such as by rental, lease or lending.
4. Perform the work publicly. This applies to literary, musical, dramatic and choreographic works, pantomimes, and motion pictures and other audiovisual works.
5. Display the copyrighted work publicly. This applies to literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic or sculptural works, including the individual images of a motion picture or other audiovisual work.

C. Copyright Term Extension Act

The Copyright Term Extension Act (CTEA),⁴ also known as the Sonny Bono Copyright Term Extension Act, the Sonny Bono Act, or the Mickey Mouse Protection Act, was signed into law on October 27, 1998. It extends the length of copyright terms, as originally established in the Copyright Act of 1976, for works published after January 1, 1978, from the life of the author plus fifty years (seventy-five years for corporate authors) to the life of the author plus seventy years (one hundred twenty years for corporate authors or ninety-five years after publication, whichever occurs earlier)—thus further delaying works entering into the public domain.

D. Digital Millennium Copyright Act

The Digital Millennium Copyright Act (DMCA),⁵ signed into law on October 28, 1998, amends the Copyright Act of 1976 by generally criminalizing the production and/or use of technology designed to bypass copyright protection/control while limiting the liability of online service providers for copyright infringement perpetrated by users of their services. Exemptions to the DMCA⁶—allowing for circumvention of copyright protection/control in certain contexts and under prescribed conditions, including educational settings and personnel engaged in criticism or analysis—were introduced on October 28, 2015, by the Librarian of Congress, and will be in effect for a period of three years at which point the exemptions must expire or be renewed.

E. Technology, Education and Copyright Harmonization Act of 2001

The advent of online distance education posed a problem to existing copyright law, which was written with a bricks-and-mortar education system in mind. The Technology, Education and Copyright Harmonization Act of 2001,⁷ also known as the TEACH Act, seeks to redress this situation, clarifying copyright considerations for distance education courses at accredited, nonprofit educational institutions within the United States.

⁴ <https://www.gpo.gov/fdsys/pkg/PLAW-105publ298/html/PLAW-105publ298.htm>.

⁵ <https://www.gpo.gov/fdsys/pkg/PLAW-105publ304/pdf/PLAW-105publ304.pdf>.

⁶ <https://copyright.gov/fedreg/2015/80fr65944.pdf>.

⁷ <https://www.gpo.gov/fdsys/pkg/BILLS-107s487es/pdf/BILLS-107s487es.pdf>.

F. Fair Use

Fair use is a “legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances.”⁸ Fair use provisions to US copyright law thus encourage technological innovation and scholarly advancement by enabling consumers to use a reasonable amount of copyrighted material for certain purposes—namely “criticism, comment, news reporting, teaching, scholarship, and research”—without obtaining the consent of or providing payment to copyright holders.

G. Creative Commons

Whenever possible, BCC students, faculty, and staff are encouraged to use open-access resources licensed by Creative Commons,⁹ a nonprofit that “develops, supports, and stewards legal and technical infrastructure that maximizes digital creativity, sharing, and innovation.” Intellectual property protected by Creative Commons licenses is designed to be accessed, disseminated, and—in some cases—transformed by end users needing to adapt material to specific purposes.

F. Peer-to-Peer File Sharing

Peer-to-Peer (P2P) networking technology allows users to access media files (e.g. music, movies, games) and share those files using peer-to-peer networking sites.

II. Copyright Act and Fair Use Parameters

A. Section 107 of the Copyright Act¹⁰ advocates the following four parameters when considering fair use eligibility:

1. “Purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes.”
 - a. Interpretation: “Transformative” use of copyrighted material—creating a new work using a reasonable amount of copyrighted work(s)—is preferred. Additionally, use of a reasonable amount of copyrighted material for educational purposes and not in a manner that results in substantial personal profit will generally be considered fair.
2. “Nature of the copyrighted work.”
 - a. Interpretation: It is safest to use a reasonable amount of nonfiction copyrighted material as opposed to fictional, which is considered to be more creative. Furthermore, unpublished works are the most protected material in US legal courts and should be used with an abundance of caution.
3. “Amount and substantiality of the portion used in relation to the copyrighted work as a whole.”

⁸ <https://www.copyright.gov/fair-use/more-info.html>.

⁹ <https://creativecommons.org/>.

¹⁰ <https://www.copyright.gov/title17/92chap1.html#107>.

- a. Interpretation: Use a reasonable amount of the copyrighted material only—a part of a whole—the smallest amount needed to accomplish a stated purpose.
 4. “Effect of the use upon the potential market for or value of the copyrighted work.”
 - a. Interpretation: If the use of copyrighted material infringes upon the existing or future market of the copyright holder (who retains exclusive rights to, among other things, “prepare derivative works”), then the project should be reconsidered or permission from the copyright holder should be sought.
- B. It is recommended that BCC students, faculty, and staff keep records of their fair use of copyrighted material using a document like a “Fair Use Checklist.”¹¹ The most common examples of fair use in an academic environment include:
1. Making a photocopy/scan of *one* chapter (part) of a book (whole) that is owned by the library or personally.
 2. Placing a photocopy/scan of *one* chapter (part) of a book (whole), which is owned by the library or personally, on reserve for students in the library (or electronically via a password-protected learning management system like Moodle).
 3. Placing *one* article from a journal title that the library subscribes to (either in print or virtually via a database) on reserve for students in the library (or electronically via a password-protected learning management system like Moodle).
 4. Showing a film to a classroom of course-enrolled students, using a copy that is owned by the library or personally, provided the faculty member is present.
 5. Making clips from films, using a copy that is owned by the library or personally, and showing them during class to course-enrolled students (or loading them to a password-protected learning management system like Moodle).
 6. Directly quoting from a copyrighted work in a published or unpublished critical essay; while the courts have not established a standard amount that is fair to use, individual publishers may expect authors to adhere to their house style guidelines.¹²
 7. Using stills or publicity material from a film (or films) *within* a published or unpublished work that analyzes/criticizes/reviews the film(s).
 8. Linking or embedding links to other websites, provided that the material being linked to is an authorized (and not pirated or infringing copyright to begin with) version.

¹¹ <https://copyright.columbia.edu/content/dam/copyright/Precedent%20Docs/fairusechecklist.pdf>.

¹² The University of Chicago Press notably provides very specific guidance to their prospective authors as to how much copyrighted material can be used fairly. See “IV. Quantitative Guidelines” on page eleven of the following document: http://www.press.uchicago.edu/Misc/Chicago/copy_and_perms.pdf. And, of course, the number of words from the copyrighted work used in relation to the total word count of the copyrighted work should be considered; for instance, a consumer would not want to use a fifteen-word quote from a twenty-word song.

- C. BCC employees and students are instructed to adhere to fair use guidelines, as well as all laws and acts related to copyright as defined above. If fair use cannot be readily determined, employees should consult with the BCC print shop for questions regarding copying of printed materials and should consult with Distance Learning for assistance with the distribution of materials online. Students should consult with the BCC Library for assistance with all copyright questions.

III. Peer-to-Peer File Sharing

Peer-to-peer file sharing is strictly prohibited at Brunswick Community College and violates BCC Policy 7.11: Acceptable Use of Computing and Electronic Resources. Please refer to Policy 7.11 for complete information regarding acceptable use of BCC equipment, servers, and software as it pertains to copyright and peer-to-peer sharing.

Approved by the Brunswick Community College Board of Trustees

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