

Procedure V.5003.C.a, Use of Copyrighted Materials

Associated Policy

Policy V.5003.C, Appropriate Use of Copyrighted and Trademarked Materials

Procedures

I. Copyright Law – General Principles

Copyright law protects original works of authorship fixed in tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. 17 U.S.C. 101-1332.

Copyright law gives the author or creator the right to control how and when their work is used by other people. Works of authorship include the following categories:

1. Literary works;
2. Musical works, including any accompanying words;
3. Dramatic works, including any accompanying music;
4. Pantomimes and choreographic works;
5. Pictorial, graphic, and sculptural works;
6. Motion pictures and other audiovisual works;
7. Sound recordings;
8. Architectural works; and
9. Software.

Copyright protection does not extend to ideas, procedures, processes, system, methods of operation, concepts, principles, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work. In addition, non-copyrighted materials and those in the public domain may be copied freely and without restriction.

A work can be protected by copyright law even if it does not contain a copyright mark. Because a copyright notice is not required for copyright protection of works published on or after March 1, 1989, most works (except those authored by the United States Government) should be presumed to be copyright protected, unless further information from the copyright holder or express notice reveals that the copyright holder intends the work to be in the public domain.

Copyright law impacts all facet of the instructional program and other operations of the College. In particular, copyright law must be considered when copying literary works, music, or images, incorporating copyrighted materials into instructional material or a publication, downloading or distributing materials from the Internet, incorporating musical recordings or photos into a website or presentation, or performing music.

II. Copyrighted Software

Copyrighted software may be copied without the copyright owner's permission only in accordance with the Copyright Act. Section 117 of the Act allows the purchaser of software to make an archival back-up copy. Most software, however, is licensed to the user and the terms of

the license agreement may give the user permission to make additional copies of the software. Due to differences in each software license agreement, the user's right to copy licensed software beyond that permitted under the Copyright Act may be determined only by reading the actual license agreement. Any copying or reproduction of copyrighted software on College computing equipment must be in accordance with the Copyright Act and each software license agreement. Faculty, staff, and students may not use unauthorized copies of any software on College-owned computers or networks.

III. Fair Use Doctrine

The "fair use" doctrine permits use of copyrighted material without permission for certain authorized purposes, including teaching, news reporting, and scholarship. Whether a particular use constitutes "fair use" will depend on the facts and circumstances surrounding use of the material, including the volume of material used and whether the use is non-commercial. For additional information on fair use, see "Reproduction of Copyrighted Works by Educators and Librarians," which is published by the U.S. Copyright Office. *See* <https://www.copyright.gov/circs/circ21.pdf>. For questions about a specific proposed use, employees should contact the Instructional Innovation and Support Office.

IV. College Restrictions on Use of Copyrighted Materials by Employees and Students

All employees and students of the San Jacinto Community College and any other individuals using copyrighted works maintained by the College must comply with copyright law and these procedures. Displaying or copying of materials or other uses not specifically allowed by the law, fair use, license agreement, or the permission of the copyright holder is strictly prohibited.

Copyright infringement is different from plagiarism. Plagiarism is offering the work of another as one's own, intentionally or unintentionally, without proper acknowledgment. In contrast, copyright infringement occurs when copyrighted material is used without permission of the copyright holder. Infringement can occur even if the work is properly cited or acknowledged.

Employees and students who violate these procedures are subject to discipline, termination, or expulsion by the College and may be held financially responsible by the copyright owner.

A. Use of College Technology

All persons are prohibited from using College technology in violation of any law, including copyright law. Only appropriately licensed programs or software by San Jacinto College may be used with College technology resources. No person shall use the College's technology resources to post, publicize, or duplicate information in violation of copyright law. The Chancellor or designee shall employ all reasonable measures to prevent the use of college technology resources in violation of the law and these procedures. All persons using college technology resources in violation of law may lose user privileges in addition to other sanctions.

B. Classroom Use

The Fair Use Doctrine addresses the use of copyrighted materials in face-to-face teaching. The TEACH Act (Technology, Education and Copyright Harmonization Act) addresses faculty use and display of works in on-line teaching. Under the TEACH Act, audiovisual works, motion pictures, and dramatic musical works may be shown to online students only in reasonable and limited portions.

Unless the proposed use of a copyrighted work falls qualifies under the fair use doctrine or the TEACH Act, the College will require an employee or student to obtain a license or permission, or work with the College to obtain such license or permission, from the copyright holder before copying, modifying, displaying, performing, distributing, or otherwise employing the copyright holder's work for instructional, curricular, or extracurricular purposes stating how the content may be used, for what purpose, who may use it, and for how long.

V. Responsible Administrators and Training

College contracts and agreements for performance rights (i.e., ASCAP, BMI, SESAC, GMRO) are maintained in the Instructional Innovation and Support and Purchasing Offices. Instructional Innovation and Support will coordinate reports to licensing agencies with campus performance departments. Questions relating to College performance rights and any associated rights should be directed to Instructional Innovation and Support.

Full-time employees and adjunct (part-time) faculty must successfully complete copyright training offered annually by San Jacinto College.

The College designates the Instructional Innovation and Support Office to provide general oversight of the copyright function for the College, to provide information about the law and procedures, and to provide guidance to promote compliance with the law.

The College designates the Assistant Vice Chancellor for Instructional Innovation and Support to receive notification of alleged online copyright infringement and to be listed as the designated agent with the U.S. Copyright Office. The College website will include information on how to contact the College's designated agent. Upon notification, the College's agent shall take all actions necessary to remedy any violation. The College shall provide the designated agent with appropriate training and resources.

VI. Defense of Employees

Unless prohibited by law, San Jacinto Community College may defend an employee against a civil action alleging copyright infringement where (a) the use is in accordance with the provisions of a valid software license agreement, (b) the permission of the copyright owner was obtained, or (c) the College's legal counsel has determined that the use is otherwise permissible. Otherwise, the employee will be personally responsible for the defense of a civil action for copyright infringement and the payment of damages, if awarded.

VII. Posting of Notices

All San Jacinto Community College offices are responsible for posting notices reflecting this policy at all computer and photocopying stations that may be used for reproducing copyrighted materials (e.g., in departmental copy rooms, libraries, and at or near all computer stations). The following is a suggested form of notice:

“Copyright Notice”

“Copying, displaying, or distributing copyrighted works may infringe on the owner’s copyright. The Instructional Innovation and Support Office at San Jacinto Community College can provide guidance to employees with questions about whether a proposed use of a copyrighted work is a fair use or requires permission. Any use of computer or duplication devices that infringes on copyrighted works is subject to appropriate disciplinary action as well as those civil remedies and criminal penalties provided by federal law.”

Date of SLT Approval	September 24, 2024
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Associated Policy	Policy V.5003.C, Appropriate Use of Copyrighted and Trademarked Materials
Primary Owner of Policy Associated with the Procedure	Deputy Chancellor/President
Secondary Owner of Policy Associated with the Procedure	Assistant Vice Chancellor Instructional Innovation and Support