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Copyright Policy and Procedures

I. Philosophy and Scope

Frederick Community College (“FCC” or the “College”) is committed to fostering an environment that enables fair use of copyrighted works while educating members of the College community about complying with copyright laws.

To ensure that FCC complies with laws governing copyright, the Copyright Policy and Procedures establish procedures for all members of the College community while performing official College tasks. The College community must adhere to federal copyright laws and all related law codified at 17 U.S.C. §101 et seq.

The College is committed to the ongoing training of students and employees in relation to the appropriate use of copyrighted materials.

II. Definitions for the Purpose of this Policy and Procedures

- A. **“Copyright”** refers to U.S. Copyright Act (Title 17, U.S. Code), which affords the copyright owner the exclusive right to do and to authorize others to: 1) reproduce the copyrighted work; 2) make derivative works based upon the original copyrighted work; 3) distribute copies of the copyrighted work; 4) and perform and/or display the copyrighted work publicly. Copyrighted works include the following categories: literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. This coverage includes books, magazines, journals, newsletters, maps, charts, photographs, graphic materials, and other printed materials; unpublished materials, such as analysts’ and consultants’ reports; and non-print materials, including electronic content, computer programs and other software, sound recordings, motion pictures, video files, sculptures, and other artistic works. Copyright law does not protect ideas, data, or facts.
- B. **“Creative Commons licensing”** refers to licensing that enables creators of copyrighted work to grant permission to others to retain (make and own a copy), reuse (use in a wide range of ways), revise (adapt, modify, and improve), remix (combine two or more), and redistribute (share with others).
- C. **“DMCA”** refers to the Digital Millennium Copyright Act, which addresses copyright-related issues overlooked in the United States Copyright Act of 1976, including those related to the presentation of digitally stored and produced materials and presentations on the Internet. The DMCA has anti-circumvention and copyright management information provisions to help copyright owners protect their digital content.
- D. **“Duplication”** refers to reproducing or copying material by any means including, but not limited to, writing, typing, photocopying, scanning, facsimile, downloading, and video, DVD, or audio recording.
- E. **“Fair Use”** refers to the right to use copyrighted materials without consent of the copyright owner, usually for scholarship, teaching, research, or criticism, as stipulated by Section 504(c)(2) of the Copyright Act.

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- F. **“Licensed works”** refers to works for which the individual or the College obtains permission for a particular use and/or works that hold a Creative Commons license, wherein the copyright owner permits use.
- G. **“Public Domain”** refers to works not protected by copyright or works created by the federal government.
- H. **“Public Performance Rights”** refers to the use of copyrighted materials as a part of an instructional activity in a public space.
- I. **“Publication”** refers to the distribution of copies of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending.
- J. **“TEACH”** refers to the Technology, Education, and Copyright Harmonization (TEACH) Act, which updates copyright law for distance education and facilitates and enables use of copyrighted materials for distance education by accredited, non-profit educational institutions.

III. Copyright Compliance

All members of the College community are responsible for complying with the requirements of copyright law, including obtaining required permissions, and complying with College guidelines regarding the legal use of copyrighted materials, regardless of the format of the material or the purpose of that use. Members of the College community who willfully disregard copyright law and this Policy and Procedures do so at their own risk and assume any liability, which may include criminal or civil penalties, and are subject to appropriate disciplinary action as outlined for students in the [Code of Student Conduct](#), and for employees in the [Employee Misconduct Policy and Procedures](#). For questions regarding compliance or alleged violations, contact the [Copyright Compliance Officer](#).

IV. Education

To support members of the College community with understanding copyright compliance, the College is committed to providing information, resources, and training to:

1. Create a heightened awareness of basic copyright law;
2. Recognize potential violations of copyright law; and
3. Inform employees, students, and other members of the College community about the proper use of copyrighted materials.

Copyright law is extremely complex. The education of students related to copyright laws is included in the Information Literacy general education competency. Certain provisions and procedures may not apply to students' work in the classroom.

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For guidance and clarification, contact the Director of Library Services, Copyright Compliance Officer, and/or review the [Copyright Resource Guide](#).

V. Obtaining Copyright Permission

Individuals are responsible for seeking permission to duplicate, present, or publicly perform copyrighted materials, unless there is an exception as outlined in Section VI. The user must obtain a letter, e-mail, or other documentation from the copyright owner or the owner's legal designee granting the right to use the work or a portion of the work for a specified purpose on a specified occasion or for a specified period of time. For guidance in obtaining permission, contact the Director of Library Services, Copyright Compliance Officer.

Some copyright owners grant permission to use their work through a license. Licensed works are governed by specific license agreements. To seek copyright permission, users should refer to the applicable licensing terms.

Once obtained, the user is responsible for keeping the official copyright permission and archiving it through the [College Copyright Documentation Form](#).

VI. General Exceptions to Obtaining Copyright Permission

Certain circumstances allow the use of copyrighted works without first obtaining permission. For example, users of copyrighted works are accorded the rights and privileges pursuant to 17 U.S.C. §§107 (Fair Use), 108 (Reproduction by Libraries and Archives), 109 (First Sale Doctrine and Transfers), 110 (Teaching Exception), and other statutory exemptions and limitations to the exclusive rights granted to the copyright owner's protected work. Unless one of the following conditions applies, prior permission from the copyright holder must be obtained.

A. Public Domain

1. Works for which the author is a government entity, including United States Government documents.
2. Works for which copyright has expired.

B. Fair Use

The "Fair Use" doctrine, Section 504(c)(2) of the Copyright Act, allows educators and students to use copyrighted materials under certain conditions without seeking prior approval. The fact alone that the intended use is educational does not remove copyright protections. To determine if fair use is applicable, the following "four fair-use factors" must be considered:

1. The purpose and character of the use, including whether the use is of a commercial nature or is for non-profit educational purposes;
2. The nature of the copyrighted work;

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3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.

If it is unclear whether fair use applies, members of the College community must seek guidance from the Copyright Compliance Officer or the FCC [Copyright Resource Guide](#).

C. Creative Commons

Some Creative Commons licenses convey copyright permission.

D. Works Used in Accordance with Section 110 of the Copyright Law

Performance or display of legally obtained work by instructors or students in the course of face-to-face teaching activities of a nonprofit educational institution in a classroom or similar place devoted to instruction.

E. Works Permitted in Accordance with the TEACH Act.

The TEACH Act facilitates and enables the use of copyrighted works in digital teaching materials both for students enrolled in traditional classroom settings and distance learning courses, provided that specific conditions are met.

VII. Guidelines for Use of Copyrighted Materials

For guidance on the use of copyrighted materials in teaching and learning, including guidance about the use of copyrighted materials as it pertains to the TEACH Act, refer to the [Copyright Resource Guide](#).

VIII. Copyright Violation Notice

Pursuant to the Digital Millennium Copyright Act (DMCA), the Chief Information Officer is the registered agent designated to receive notices of alleged copyright infringement and to take certain actions in response to such notices, including, but not limited to, responding to the notice, investigating the claim, and removing any infringing material.

Individuals found to be in violation of the DMCA are subject to disciplinary action as outlined in the [Technology Use Policy and Procedures](#), and the [Code of Student Conduct Policy and Procedures](#) or [Employee Misconduct Policy and Procedures](#), as appropriate.