COPYRIGHT CLEARANCE GUIDELINES

Prepared by:
Messiah College Learning Technology Services

Reviewed by Messiah College Legal Counsel, Rhoads & Sinon, 2012

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What is Copyright?

Copyright is the right granted by law to an author or other creator to control the use of the work created. The copyright law grants owners of copyright (authors, other creators, publishers) the sole right to or to allow others to do each of the following acts with regard to their copyrighted works:

- to reproduce all or part of the work
- to distribute copies (including by transmission via the internet)
- to prepare new (derivative) versions based on the original work
- to perform the work publicly
- to display the work publicly

Copyright protection covers both published and unpublished works. The fact that a previously published work is out-of-print does not affect its copyright. This protection exists to foster and induce the creation of all forms of works of authorship. These works include books, newspapers, magazines, computer software, multimedia works, sound recordings, audio-visual works, dissertations, research papers, photographs, cartoon strips, and other works. The copyright law protects works by providing fair returns to creators and copyright owners. To the extent copies are made without permission, publishers and authors, including faculty, are deprived of revenues in the very markets for which they have written and published.

Why does copyright compliance matter?

Copyright compliance matters whether you are a copyright holder or a content user. As an ethical matter, respecting the rights of copyright holders is simply the right thing to do.

It’s the law: as stated in the Copyright Act, it is unlawful to infringe on the rights of copyright holders. Copyright holders can sue offenders for damages or to recoup lost profits as a result of infringement. As compliance and the protection of intellectual property continue to make headlines, copyright holders and law enforcement are monitoring and paying closer attention.

What are the penalties for copyright infringement?

Civil and criminal penalties may be imposed for copyright infringement. Civil remedies can include an award of monetary damages (substantial statutory damages, which, in cases of willful infringement, may total up to $150,000 per work infringed, or actual damages, including the infringer’s profits), an award of attorney’s fees, injunctive relief against future infringement, and the impounding and destruction of infringing copies and of equipment used to produce the copies.
Messiah College Copyright Compliance Policy

Messiah College recognizes and respects intellectual property rights. As part of our mission to maintain the highest standards for ethical conduct, we are committed to fulfilling our moral and legal obligations with respect to our use of copyright-protected works.

Article I of the U.S. Constitution authorizes Congress to pass legislation “to promote the Progress of Science and useful Arts by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writing and Discoveries.” On the basis of the Constitution, Congress has enacted the Copyright Act found in Title 17 of the U.S. Code.

As a matter both of moral integrity and adherence to U.S. copyright law, Messiah College sets forth these policies for all Messiah employees and students to demonstrate our respect for intellectual property and compliance with the law:

1. No employee or student of Messiah College may reproduce any copyrighted work in print, video or electronic form in violation of the law, and the easiest way to ensure no violation is by receiving express written permission of the copyright holder. Works are protected by copyright laws in the U.S. even if they are not registered with the U.S. Copyright Office and even if they do not carry the copyright symbol (©).

Copyrighted works include, but are not limited to, printed articles from publications, TV and radio programs, videotapes/DVD’s, musical compositions, music performances, photographs, training materials, manuals, documentation, software programs, databases and World Wide Web pages. In general, the laws that apply to printed materials are also applicable to visual and electronic media. Examples include diskettes, CD-ROMs and World Wide Web Pages.

2. Messiah College utilizes the Copyright Clearance Center’s (CCC) pay-per-use service to obtain copyright permission to:
   - Photocopy material from books, newspapers, journals and other publications for use in academic coursepacks and classroom handouts;
   - Use and share information in library reserves, interlibrary loan and document delivery services;
   - Post and share content electronically in e-reserves, learning management systems (Sakai), electronic coursepacks, on-line courses, and other e-learning environments;
   - Distribute content via e-mail or post it to your intranet, extranet or Internet sites;
   - Republish an article, book excerpt or other content in your own books, journals, newsletters and other materials.

3. Messiah College designates Learning Technology Services to administer our college copyright policy. The Copyright & Educational Support Specialist can assist you to determine whether a work is in the CCC catalog, as well as how to handle any special copyright issues. Questions concerning copyright procedures, including fair use, should be directed to the Copyright & Educational Support Specialist at copyright@messiah.edu.
4. For all other copyrighted works, Messiah College directs its students and employees to obtain permission from copyright holders directly, or their licensing representative, when the reproduction exceeds fair use. Messiah College maintains license agreements with ASCAP, BMI and SESAC which permit non-dramatic public performance of most copyrighted music. Copies of these agreements are available in the Provost’s Office. Public performance of music not registered with one of these entities is authorized only with permission of the copyright holder.

Messiah College encourages its employees and students to educate their peers on copyright compliance. If any staff member or student witnesses a potential copyright infringement, we encourage the employee/student to bring the matter to the attention of the individual. And we encourage that individual to seek clarification of copyright requirements from the Copyright & Educational Support specialist.

Examples of copyrighted works:

- Literary works (i.e., books, magazines, newspapers, cartoons, trade journals, training material, newsletters, documentation, text works)
- Computer Software
- Pictures, graphics and sculptures (i.e., maps, cartoon characters, photographs)
- Sound recordings (i.e., compact discs, cassette tapes, phonographic records)
- Musical compositions
- Architectural works (i.e., blueprints)
- Dramatic works (i.e., plays, screenplays)
- Audiovisual works (i.e., videotapes/DVD’s)
- Pantomimes and choreographic work

Public Performance of Copyrighted Music:

Messiah College maintains ASCAP, BMI, and SESAC license agreements. In general, these licenses permit non-dramatic public performances of copyrighted music the College presents on campus, including concerts, coffeehouses, cafeterias, dances and mixers, faculty or social club parties, athletic events, exercise classes, campus store usage, and music-on-hold telephone systems. The licenses also permit off-campus performances if the locations are engaged for use by the College.

The licenses generally do not permit performances by college radio or TV stations, off-campus performances at locations not engaged by the College, or concerts or recitals co-sponsored/co-presented/co-promoted with an entity engaged in the concert promoting or presenting business. They also do not permit dramatic performances, such as a performance of music as part of a musical comedy, opera, play with music, revue or ballet presented in its entirety, or the performance of one or more musical selections from such a musical or opera accompanied by dialogue, pantomime, dance or stage action. Any of these public performances must be separately permitted by the copyright holder.
Whenever we buy, rent, or borrow a DVD or videotape of a movie (or any other audiovisual work) made by someone else, we are likely to think that we can use it as we choose. Unfortunately, copyright law controls our ability to use and display the movie because we have really only obtained the copy and not the underlying copyright rights to the work itself. Legally, any showing of this movie is regarded as a “performance” of a dramatic work, whether it’s being shown to a small group of friends or to a large group in a campus classroom.

What this means is that there are several questions which must be answered so that we are certain we are complying with federal law. Please refer to the attached flowchart for a simplified version of the decision process.

1. **Is this movie showing a “private” or “public” performance?**

   Showing the movie to members of your family or a small group of friends is regarded as a **private** performance. A private performance, such as showing a video to a small group in a residence hall room, is permissible and does not violate the rights of the copyright owner.

   A performance is **public** if the movie is being shown to people other than family members or a small group of friends, or if it is being shown in a place that is open to people other than family members or a small group of friends. Showing a movie in a residence hall lounge or campus classroom is a public performance if it is open to more than a small group of friends. That may infringe on the copyright owner’s rights unless you have purchased **public performance rights (PPR)** from the copyright owner, or there is some applicable exception to the PPR requirement.

   **Anyone needing to secure public performance rights should contact a for assistance.** The College’s collection includes many videos or DVDs marked “PPR” which may be used for public performances. The College’s licensing agreements for its videos and DVDs permit their use only in face-to-face classroom instruction. Any other uses, such as showing at conferences or campus-wide events, will necessitate obtaining public performance rights from the distributor or copyright holder. In checking out a video or DVD, the borrower assumes responsibility for using it in accordance with the College’s licensing agreements and U.S. copyright law.

2. **Is there an exception which will allow showing the movie without PPR?**

   Even if your showing fits the definition of a public performance, you can show it without PPR if either of the following exceptions applies:

   - The movie will be shown by an instructor (including an RD acting in his/her role as an educator) in the course of **face-to-face teaching** activities in a classroom or similar place devoted to instruction. The showing must be for **instructional purposes** (not for recreation, entertainment, or general cultural value) with the instructor or a student leader **personally present.** Typically, the movie must **directly relate to a course’s curricular goals** as described in the course syllabus. A showing by an RD should include an introduction and discussion of the movie. The copy of the movie being shown must have been **lawfully made.** A legal copy purchased or rented from a store or distributor or borrowed from a library may be used. A **movie taped or recorded from television or copied without permission may not be used.**
• The movie you will be showing is in the “public domain.” Generally, this means that no person or organization has any proprietary interest such as a copyright or that any copyright to the movie has expired. Even movies which are quite old may still be protected by copyright. It is often difficult to determine whether a film is in the public domain, but helpful information is found at:

http://www.desertislandfilms.com/
http://emol.org/movies/freemovielist.html
http://movies.magnify.net/
http://www.openflix.com/
http://www.fesfilms.com/masters.html

**Bottom Line:** Copyright law does not permit a public performance of a movie unless one of these exceptions applies or public performance rights are obtained. There is no general “educational,” “nonprofit,” or “free of charge” exception. This means that most movie showings outside the context of face-to-face classroom teaching will require you to have PPR. No admission fee may be charged for a movie showing nor may the movie showing be publicized to the general campus unless public performance rights have been secured.

Revised May 2008
<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>Instructions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are you going to show the movie to anyone other than your family or a small group of your friends?</td>
<td></td>
<td>No</td>
<td><strong>Go:</strong> Your showing is not a public performance, and you do not need to purchase public performance rights.</td>
</tr>
<tr>
<td>Are you going to show the movie in a place that is open to anyone other than your family or a small group of your friends (i.e., a classroom, auditorium, or residence hall lounge)?</td>
<td>Yes</td>
<td></td>
<td><strong>Caution:</strong> Your showing is a “public performance”.</td>
</tr>
<tr>
<td>Will you be showing the movie as part of live, face-to-face teaching activities in a classroom or similar place devoted to instruction, and do you have a legitimate copy?</td>
<td></td>
<td>Yes</td>
<td><strong>Go:</strong> Your showing falls within one of the applicable exceptions, and you do not need to purchase separate public performance rights.</td>
</tr>
<tr>
<td>Did the movie come with an express license specifically authorizing you to show the movie in the manner intended?</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the movie in the public domain?</td>
<td>No</td>
<td></td>
<td><strong>Stop:</strong> You need to purchase public performance rights.</td>
</tr>
</tbody>
</table>

© 2008 Rhode Island School of Design – Used by permission.
Use of Copyrighted Work in Online Courses

Online transmission of course content that includes display and performance of copyrighted works is governed by the federal Technology, Education and Copyright Harmonization Act. (TEACH). The TEACH Act allows an accredited, nonprofit educational institution to transmit performances and displays of copyrighted works as part of a course without prior permission from copyright holders if certain conditions are met. If these conditions are not or cannot be met, the copyrighted material may be used only if it qualifies as a “fair use” or prior permission from the copyright holders has been obtained. Works which are in the public domain may be used freely.

Helpful information regarding the TEACH Act is found at the following site: http://www.provost.ncsu.edu/copyright/toolkit/

The TEACH Act allows the use in online course content of the following works without prior permission:

- Performance of an entire non-dramatic literary or musical work (a poetry reading or performance of a string quartet);
- Performance of a reasonable and limited amount of any other work (i.e., a scene from a feature dramatic film or musical comedy);
- Display of any other work in an amount comparable to that displayed in a live class (i.e., photos of sculpture or paintings).

It is important to remember that, in order to transmit an entire dramatic literary or musical work (i.e., feature film, opera, musical comedy) which is not in the public domain, the instructor must have:

- Prior permission of the copyright holder; or
- Public performance rights (PPR) for the work.

Faculty members should contact Murray Library to help them ascertain whether the College holds PPR for a copyrighted work in our collection. Assistance in requesting permission from a copyright holder through the copyright clearance process is available from The Copyright & Educational Support Specialist.

Faculty members are responsible to assure that the copyrighted work being displayed is:

- Used at the direction of or under the supervision of the course instructor;
- An integral part of a class session;
- Part of systematic, mediated instructional activity;
- Directly related and of material assistance to the teaching of the course;
- Not a copy which s/he knows or should reasonably know was made or acquired illegally;
- Not produced by someone else primarily for performance or display as part of instructional activities transmitted via digital networks.
Explanations of TEACH Act requirements are found on the attached chart, which is used by permission of The Society for Cinema and Media Studies.

The TEACH Act requires that we provide notice to students that materials used in connection with the course may be subject to copyright protection. The following wording is suggested:

_The materials on this course Website are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated._

The TEACH Act also requires that technical safeguards (“downstream controls”) be in place before copyrighted works can legally be transmitted as a part of online courses. To satisfy the law, we are obliged to use reasonable measures to prevent students from saving, copying, or further disseminating (i.e., sharing) the material.

Among possible safeguards are:

- Password protection of copyrighted material so that only students enrolled in the online course have access;
- Limitation of the time that the material is posted to a site;
- Streaming of video;
- Use of HTML coding to prevent downloading and copying.

In order to avoid the complexities of complying with the TEACH Act when a course requires that students view an entire work, it may be advisable to require that students obtain and watch the work on their own. Many DVDs are available online with closed captioning at [http://www.amazon.com/](http://www.amazon.com/) or [http://www.netflix.com/Register](http://www.netflix.com/Register). Instructors should post in the course syllabus and on the Web that acquisition and viewing of the work by the student is a requirement of the course.

Faculty members also may create their own videos for course use. Contact Amy Slody, Director of Disability Services, to obtain assistance creating a transcript of the video for ADA compliance. VHS copies must be digitized by Learning Technology Services. Please note that there is a fee to reformat VHS into a DVD - digital copy.

If a work cannot be purchased or otherwise acquired by students and the College’s available copy is in the VHS format, we are required by the TEACH Act to make an effort to acquire a digital version of the work. If no digital version is available or the available digital version is technologically protected to not comply with the TEACH Act uses, we are permitted to reformat the work ourselves (Learning Technology Services) into digital format. In _any event, the TEACH Act rules stated above will apply to the use of the work as a part of an online course._
The Society for Cinema and Media Studies’
Statement for Best Practices for Fair Use in
Teaching for Film and Media Educators

**Film and Media in On-line Instruction**

<table>
<thead>
<tr>
<th>INSTITUTIONAL</th>
<th>FACULTY</th>
<th>INFORMATION TECHNOLOGY</th>
</tr>
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<tbody>
<tr>
<td>▪ Your institution must be a government body or an accredited nonprofit</td>
<td>▪ Faculty may:</td>
<td>▪ IT specialists must help ensure that access to copyrighted material is limited to students enrolled in the on-line distance course.</td>
</tr>
<tr>
<td>educational institution.</td>
<td>1. Perform non-dramatic literary works;</td>
<td>▪ IT specialists must employ reasonable measures to ensure that students’ abilities to receive, store, and transmit the materials is limited. Students should receive the information in a form that allows them to access or receive the materials only for the class session; they should only be able to access the information temporarily. They should also not be able to store or download the materials beyond the class session.</td>
</tr>
<tr>
<td>▪ Your institution must incorporate institutional copyright policies to</td>
<td>2. Perform non-dramatic music works;</td>
<td>▪ IT specialists must make reasonable efforts to ensure that their technology for the on-line distance education course does not interfere with digital rights management technology measures used by copyright owners to control their works, except where the 2006 exemption applies (see above section on anti-circumvention).</td>
</tr>
<tr>
<td>education faculty, staff, and students.</td>
<td>3. Perform any other work in “reasonable and limited portions”;</td>
<td>▪ IT specialists must restrict retention/storage of the materials to reasonably necessary periods of time sufficient to facilitate class transmission and in such a way that only enrolled students may access them.</td>
</tr>
<tr>
<td>▪ The institution must disseminate information about copyright policies</td>
<td>4. Display any work “in an amount comparable to that which is typically displayed in the</td>
<td>▪ IT specialists may not retain or copy digital transmissions if they are for purposes other than the educational purposes outlines in Section 110(2).</td>
</tr>
<tr>
<td>and laws.</td>
<td>course of a live classroom session.”</td>
<td></td>
</tr>
<tr>
<td>▪ The institution must provide notice to students about potential legal</td>
<td>▪ Faculty must ensure that the performance or display is:</td>
<td></td>
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<tr>
<td>limitations on the use of materials used as part of the on-line course.</td>
<td>1. Supervised – “made by, at the direction of, or under the actual supervision of an</td>
<td></td>
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<tr>
<td>▪ The institution must limit access to the materials to students enrolled in the specific on-line course.</td>
<td>instructor;”</td>
<td></td>
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<td></td>
<td>2. Part of a structured course – “an integral part of a class session offered as a</td>
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<td></td>
<td>regular part of the systematic, mediated instructional activities” of the educational</td>
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<td></td>
<td>institution;</td>
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<td></td>
<td>3. Relevant – “directly related and of material assistance to the teaching content of the</td>
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<td></td>
<td>transmission,” not just for entertainment purposes.</td>
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<td>▪ Faculty may not use:</td>
<td>▪ Faculty may not use:</td>
<td></td>
</tr>
<tr>
<td>1. Works that are specifically produced or marketed for distance education</td>
<td>1. The amount that may be converted is limited to the amount of appropriate works (“reasonable and limited portions” for performances and “amount comparable to that which is displayed in the course of a live classroom session” for displays);</td>
<td></td>
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<tr>
<td>contexts;</td>
<td>2. A digital version of the work is not “available to the institution” or is secured</td>
<td></td>
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<tr>
<td>2. Copies that the educational institution “knew or had reason to believe”</td>
<td>behind technological protection measures.</td>
<td></td>
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<tr>
<td>were not lawfully made and acquired.</td>
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<tr>
<td>▪ Faculty may not convert materials from analog into digital formats, except</td>
<td></td>
<td></td>
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<tr>
<td>where, as outlined in 17 U.S.C. § 112(f):</td>
<td></td>
<td></td>
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<tr>
<td>1. The amount that may be converted is limited to the amount of appropriate</td>
<td>1. The amount that may be converted is limited to the amount of appropriate works (“reasonable and limited portions” for performances and “amount comparable to that which is displayed in the course of a live classroom session” for displays);</td>
<td></td>
</tr>
<tr>
<td>works (“reasonable and limited portions” for performances and “amount</td>
<td>2. A digital version of the work is not “available to the institution” or is secured behind technological protection measures.</td>
<td></td>
</tr>
<tr>
<td>comparable to that which is displayed in the course of a live classroom</td>
<td></td>
<td></td>
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<tr>
<td>session” for displays);</td>
<td></td>
<td></td>
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<tr>
<td>2. A digital version of the work is not “available to the institution” or</td>
<td></td>
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<tr>
<td>is secured behind technological protection measures.</td>
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</tbody>
</table>

**Sources:** 17 U.S.C. 110(2); 117 U.S.C. 112(f); http://www.copyright.iupui.edu/teach_summary.htm
http://www.lib.ncsu.edu/scc/legislative/teachkit/overview.html
http://www.copyright.com/services/copyrightoncampus/basics/teach.asp
1. Faculty members should contact the Copyright & Educational Support Specialist to obtain copyright permissions.

2. The Copyright & Educational Support Specialist will submit your request(s) to the Copyright Clearance Center (CCC) or, if necessary, contact the publisher/rightsholder directly to obtain permission.

3. The Copyright & Educational Support Specialist receives notification of copyright permission approval or disapproval.

4. Individuals will be notified of the approximate charges to process the approved material(s).

5. Individual approves or disapproves the charges.

6. If charges are approved, the Copyright & Educational Support Specialist will finish processing the copyright request.


8. College Press arranges for delivery of coursepacks to the Textbook Express or photocopies to the Copyright & Educational Support Specialist for faculty pick-up.

9. The Copyright & Educational Support Specialist manages the payment of copyright charges. Copyright Clearance Billing Forms are distributed to the Campus Store Manager and Department Chairs toward the end of the semester in which the materials were used. The billing form is then approved by the manager/chair and forwarded to Accounts Payable for checks to be issued to pay the copyright charges.

10. After photocopying, all copyright documentation is filed in the Copyright & Educational Support Specialist’s Office.

**DOCUMENTS WILL NOT BE PUT ON RESERVE OR COURSEPACKS SOLD IN THE TEXTBOOK EXPRESS UNTIL THE COPYRIGHT APPROVAL PROCESS IS COMPLETE.**

For submission deadlines for copyright permission requests for Fall, J-Term, Spring and Summer semesters, please check the Faculty Services website listed below.

[http://www.messiah.edu/offices/faculty_services/](http://www.messiah.edu/offices/faculty_services/)

[Requests received after the posted deadline will be processed, but may not be available by the date needed.]
Photocopying Best Practices

1. **Submit a copy order to College Press at $.035 cents/page**

   *College Press prefers at least 24-48 hours to accommodate copy requests*

   - Order on-line (through MC Square)  *NOTE: PDF file of document preferred*
   - Submit via e-mail to collegepress@messiah.edu  *(Attach PDF file of your job to the e-mail and use the special Faculty “short” form available on the forms channel of MC Square)*
   - Drop off your job at the College Press front counter from 8:00 a.m. until 5:00 p.m.
   - Drop off your job at Faculty Services or the Campus Post Office
   - Submit via campus mail

2. **Satellite copiers at $.06 cents/page**

   - If you need copies immediately
   - If you need less than 50 copies
   - Remember to set the copier to two-sided mode to save paper

3. **Desktop printers at $.08 cents/page**  *Approximate cost, not directly billed in most areas*

**Other important information:**

   - Please keep in mind that College Press is always busiest in the weeks leading up to the start of a semester. It is important to **adhere to the semester deadlines** which are posted regularly by The Copyright & Educational Support Specialist.
   - Consider posting your document to your on-line learning management system (Sakai)  *(Learning Technology Services can assist you with this)*
   - If your copy request involves copyrighted materials, it is your responsibility to contact The Copyright & Educational Support Specialist to initiate the process of obtaining copyright clearance.
   - Color copies are also available through College Press

College Press is happy to provide assistance and/or training in utilizing the on-line order system. Our goals are to help the campus print and copy less and to provide copying services which are necessary in the most convenient way possible. If you have any questions or comments or require additional information, please don’t hesitate to contact us at ext. 6030.

Thank you.
Copyright Clearance Not Required
If All Of The Following Conditions Are Met:

SINGLE COPYING FOR CLASSROOM USE

A single copy may be made of any of the following by faculty for scholarly research or use in teaching or preparation to teach a class:

- A chapter from a book;
- An article from a periodical or newspaper;
- A short story, short essay or short poem, whether or not from a collective work;
- A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

MULTIPLE COPIES FOR CLASSROOM USE

Multiple copies (not to exceed more than one copy per student per course) may be made by or for faculty for classroom use or discussion, provided that:

- The copying is spontaneous;
- The copying is used only once in a single course;
- The same author is represented only once, i.e., only one selection per author;
- No more than 3 selections are used from a collective work or periodical volume;
- No more than 9 instances of multiple copying occur for one course during one term;
- Each copy includes a notice of copyright.

Example:

Frequently Asked Questions on Copyright Clearance

PHOTOCOPYING FOR RESEARCH

1. Q. Is there a percentage of a book that can be copied without copyright approval?
   A. For single copying, no more than 25 percent of an entire work may be copied at any one time. For copying more than 25 percent of a book, see No. 2 below.

2. Q. Is it okay to make one copy of a book for academic purposes?
   A. Again, only 25 percent of a book can be photocopied at any one time for personal use. Successive copying of an entire book is allowable, provided that no more than 25 percent of the book exists at any one time. The remaining 75 percent must remain uncopied or the copied material must be destroyed immediately after use.

3. Q. If a faculty member wants to make copies of more than one chapter from a book, what is the policy? Is it necessary to get copyright permission, or can the book in question be ordered?
   A. For a single photocopy, fair use allows copying of up to 25 percent of an entire work without securing permission. Ordering the book itself is always an option. Please see your librarian for details.

CLASSROOM USE PHOTOCOPYING

4. Q. Can a faculty member distribute materials in the classroom that he or she photocopies?
   A. Classroom distribution is allowed for photocopying of one chapter from a book, one article, or one poem without permission provided that the material has not been used before and the copyright information is included somewhere on the handout. (Please see bottom of page 14 for the correct format for crediting sources.)

   Only one copy per student is allowed, students cannot be charged any fee beyond photocopying costs, and the materials cannot be photocopied again for the same or another course without permission.

5. Q. Can a faculty member make copies of pamphlets, cartoons, illustrations, or workbooks?
   A. Workbooks and texts can never be reproduced without permission. Multiple reproductions of pamphlets, cartoons or illustrations must be approved by the rightsholder.
6. **Q.** Is it permissible to make transparencies from texts? Can a faculty member copy something to a transparency? Is it permissible to make multiple copies of one chart, graph, diagram, etc.?

   **A.** Yes, all of these things are possible with permission from the rightsholder and payment of all royalties.

7. **Q.** What is to be done regarding the enlarging of copies/books for visually impaired persons? What about enlarging copies so that they can be seen better, i.e., music?

   **A.** Permission for these requests should be secured before proceeding. The Disability Services Supplies Account (2009-6320) can be used for charging duplicated work for the visually impaired. Please contact the director of Disability Services for details.

**OBTAINING COPYRIGHT CLEARANCE**

8. **Q.** What is the Copyright Clearance Center (CCC)?

   **A.** The CCC is utilized by more than a thousand colleges and universities to obtain permission to use materials for coursepacks, e-reserves, learning management systems, on-line courses, interlibrary loan and other classroom and educational uses. While the CCC does not represent all publishers, enough are represented to warrant using the CCC as the first step in approving most permissions. Messiah College maintains an account with the CCC and he Learning Technology Services Copyright & Educational Support Specialist is prepared to handle all faculty requests for permission.

9. **Q.** What is CCC's turnaround time for materials that are not in its catalog?

   **A.** For items not already in its catalog, the CCC normally responds in less than two weeks, either with a yes, a no, or a request to contact the rightsholder directly. For items requested from publishers listed in the CCC’s catalog, permission is instantaneous and photocopying of the requested materials can begin immediately.

10. **Q.** How long does it take to get approval? How long does a faculty member have to wait for approval after the request has been submitted?

    **A.** For works requested from the publishers/rightsholders not listed in the CCC on-line catalog, 6-8 weeks usually represents a reasonable time to await word on permission, provided that all attempts toward communication have been documented. Once a reasonable effort has been made to contact the publisher/rightsholder, copying of the requested material can proceed.

11. **Q.** What about using an off-campus copy shop?

    **A.** Using off-campus copy shops subjects you to the same copyright compliance procedures as Messiah College.

12. **Q.** What are the procedures for handling materials that need clearance to photocopy from a copyright holder? Can an individual or a department do it? If so, what should they do with the permission and the bill?
A. While the Copyright & Educational Support Specialist can handle all correspondence concerning copyright approval, individuals may sometimes find it easier to secure permissions on their own. Before photocopying can proceed, documentation in the form of contracts, invoices, and billings must be filed in the Copyright & Educational Support Specialist’s Office. CCC copyright fees for materials to be placed on library reserve will be billed to the department.

13. Q. Are telephone and e-mail approvals acceptable?

A. All telephone approvals require written documentation and proof of payment before photocopying of the material can occur. E-mail permissions are acceptable provided that the rightsholder’s e-mail address is included.

14. Q. If a certain number of copies are approved, what should a faculty member do if additional students appear in the classroom?

A. The rightsholders must be notified immediately and all additional royalties paid, whether for reserves or for coursepacks.

LIBRARY RESERVES

15. Q. Can the Library accept a single photocopied article from a professor for reserve without copyright permission? What about subsequent use of the article?

- A single photocopied article can be placed on reserve without clearance provided the article is limited to no more than one chapter from a book, one entire article, or one poem;
- The copy must also be made directly from the original source and cannot be a second generation copy (a copy of a copy);
- Use of the photocopy, however, is good only for a single course for a single semester. Any articles used for more than one semester must have copyright clearance if applicable;
- Proof of granted permissions must accompany all materials submitted at the circulation desk. If the permissions were acquired through the Copyright & Educational Support Specialist’s Office, a copy of the granted permissions request will be provided to you.

16. Q. What is the duration of copyright permission for reserves?

A. Permissions acquired through the Copyright Clearance Center (CCC) are restricted to one-term use.

17. Q. Can the Library accept multiple copies of an article from a journal in its collection to place on reserve?

A. Yes, provided
- the amount of material is reasonable;
- the number of copies is reasonable in relation to the size of the class;
- the material includes notice of copyright;
- the material is not used every semester;
- the use of the material is not detrimental to the market for the work.
18. Q. Can the Library accept an article that was obtained through Interlibrary Loan?
   A. Yes. Only the original photocopy of the ILL material can be used, either for personal use or on reserve. Photocopies can never be made of already photocopied or faxed material.

19. Q. What is the Library’s policy for ordering multiple copies of books to be put on Reserve?
   A. Ordering multiple copies of any book is always possible. Please see your liaison librarian for more details.

20. Q. What is the Library’s policy for dealing with out-of-print books? Does the Library try to order through an out-of-print dealer, or does the Library get permission to copy an entire book from the publisher? If the out-of-print book is photocopied, does the Library try to get permission to keep that copy in its collection once it is off reserve?
   A. Finding and purchasing out-of-print books often requires more time and expense than the material is worth. Ordering out-of-print material is therefore discouraged. Copying an entire work is often an option, but only after permission is secured from the rightsholder and all royalties paid. (This should be handled through Learning Technology Services.) The material can then be added to the Library’s collection.

COURSEPACKS, SYLLABI AND HANDOUTS

21. Q. How do coursepacks and handouts permissions differ from reserves?
   A. Coursepack and handout permissions are normally good for a single term only, with distribution of one copy per student in a given course. Like reserves, permission to photocopy coursepacks and handouts is provided through the CCC or through correspondence with the rightsholder. Also, like reserves, no photocopying of coursepacks or handouts can occur until permission has been granted and payment of all fees and royalties has been made.

22. Q. Can the College Press photocopy materials for coursepacks and handouts in advance of expected permission?
   A. College Press can only photocopy materials that have already been approved by the rightsholder with documentation of payment (if applicable). Photocopying can also proceed with immediate approval by the CCC or a waiving of payment by the rightsholder. An approval form must be completed and must accompany all job requests for photocopying at College Press.

23. Q. Are spontaneous handouts possible?
   A. Photocopying of a short story, poem, or newspaper/magazine article is allowed for classroom handouts without permission provided that students are charged nothing beyond the cost of photocopying and that the material will not be photocopied again for the same or another course.
<table>
<thead>
<tr>
<th>Date of Publication</th>
<th>Conditions</th>
<th>Copyright Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 1923</td>
<td>None</td>
<td>None. In the public domain due to copyright expiration.</td>
</tr>
<tr>
<td>1923 through 1977</td>
<td>Published without a copyright notice</td>
<td>None. In the public domain due to failure to comply with required formalities.</td>
</tr>
<tr>
<td>1978 to March 1, 1989</td>
<td>Published without notice, and without subsequent registration within 5 years</td>
<td>None. In the public domain due to failure to comply with required formalities.</td>
</tr>
<tr>
<td>1978 to March 1, 1989</td>
<td>Published without notice, but with subsequent registration within five years</td>
<td>70 years after the death of the author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first.</td>
</tr>
<tr>
<td>1923 through 1963</td>
<td>Published with notice but copyright was not renewed</td>
<td>None. In the public domain due to copyright expiration.</td>
</tr>
<tr>
<td>1923 through 1963</td>
<td>Published with notice and the copyright was renewed</td>
<td>95 years after publication date.</td>
</tr>
<tr>
<td>1964 through 1977</td>
<td>Published with notice</td>
<td>95 years after publication date.</td>
</tr>
<tr>
<td>1978 to March 1, 1989</td>
<td>Created after 1977 and published with notice</td>
<td>70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first.</td>
</tr>
<tr>
<td>1978 to March 1, 1989</td>
<td>Created before 1978 and first published with notice in the specified period</td>
<td>The greater of the term specified in the previous entry, or December 31, 2047.</td>
</tr>
<tr>
<td>From March 1, 1989 through 2002</td>
<td>Created after 1977</td>
<td>70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first.</td>
</tr>
<tr>
<td>From March 1, 1989 through 2002</td>
<td>Created before 1978 and first published in this period</td>
<td>The greater of the term specified in the previous entry, or December 31, 2047.</td>
</tr>
<tr>
<td>After 2002</td>
<td>None</td>
<td>70 years after the death of author. If a work of corporate authorship, 95 years from publication or 120 years from creation, whichever expires first.</td>
</tr>
</tbody>
</table>
The Fair Use Factors

<table>
<thead>
<tr>
<th>For this factor . . .</th>
<th>It is more likely to be fair use if it is . . .</th>
<th>It is less likely to be fair use if it is . . .</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose</td>
<td>▪ Not for money</td>
<td>▪ For money</td>
</tr>
<tr>
<td></td>
<td>▪ An educational use</td>
<td>▪ Not an educational use</td>
</tr>
<tr>
<td></td>
<td>▪ A transformation rather than a mere</td>
<td>▪ a transformation but a reproduction</td>
</tr>
<tr>
<td></td>
<td>reproduction of the original work</td>
<td>of the original work</td>
</tr>
<tr>
<td>Nature</td>
<td>▪ A more factual work</td>
<td>▪ A more creative and/or original work</td>
</tr>
<tr>
<td>Amount</td>
<td>▪ Only small portions relative to the whole work,</td>
<td>▪ Substantial portions or the entirety of the</td>
</tr>
<tr>
<td></td>
<td>which are used</td>
<td>work are used</td>
</tr>
<tr>
<td></td>
<td>▪ Directly relevant to the educational</td>
<td>▪ The heart of the work</td>
</tr>
<tr>
<td></td>
<td>purpose</td>
<td>▪ Not directly relevant to educational</td>
</tr>
<tr>
<td></td>
<td></td>
<td>objectives</td>
</tr>
<tr>
<td>Market</td>
<td>▪ Of little economic impact</td>
<td>▪ Of direct economic impact on an existing or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>potential market for the work</td>
</tr>
</tbody>
</table>

Fair use is not a straightforward concept. Rather, any fair use analysis must be conducted on a case-by-case basis, considering the factors and circumstances of the situation at hand. When in doubt, obtain permission to avoid any potential legal challenges brought by copyright holders.

Copyright Information on the Web

For more information on copyright visit these sites on the web:

- Copyright Clearance Center  http://www.copyright.com
- United States Copyright Office  http://www.loc.gov/copyright
- Basic copyright law  http://www.loc.gov/teachers/usingprimarysources/copyright.html
- Crash Course  http://www.lib.utsystem.edu/copyright/
- Fair use  http://www-sul.stanford.edu/cpyright.html
LEARNING TECHNOLOGY SERVICES

Procedures for Obtaining Copyright Clearance

Copyright clearance requests are submitted to the Copyright & Educational Support Specialist via copyright@messiah.edu.

IMPORTANT: When submitting course materials, follow the work submission deadlines posted by the Copyright & Educational Support Specialist eight (8) weeks prior to the start of the new semester.

In each case where copyright clearance is required, the instructor follows the procedures described below.

NEW COURSEPACK

1. Complete the Copyright Clearance Request Form by providing all information requested. How do I obtain this form?
   - print form from the Faculty Services web page at http://www.messiah.edu/offices/faculty_services/copyright/
   - request form be e-mailed by contacting the Copyright & Educational Support Specialist at copyright@messiah.edu

2. In lieu of completing the Copyright Clearance Request Form, provide a typed bibliography that lists each reading in the coursepack. All information listed below must be present to successfully obtain copyright clearance:
   - Title of book or journal
   - Article title or chapter title/number
   - Author/Editor
   - Publisher
   - Month and/or year selection was published
   - Page numbers [i.e., from - to] (i.e., 1-15)
   - ISBN No. (if available)

3. When copyright clearance is obtained for all readings, the instructor is notified of copyright fees.

4. Instructor approves/disapproves the copyright fees and confirms the coursepack readings.

5. Instructor completes the Work Requisition form (top section and coursepack/lab manual section).

6. Instructor submits the completed Work Requisition form along with the actual books and journals to the Copyright & Educational Support Specialist. NOTE: Copies are acceptable, but remember the originals that you provide determine the quality of the coursepack. Try to avoid multi-generation copies and copies with notes or underlining.

7. The Copyright & Educational Support Specialist creates a Reading List/Table of Contents and Cover Page for the coursepack.

8. Indicate on the Work Requisition form if you would like the pages numbered in the coursepack.

9. Coursepacks are digitally scanned and produced in College Press and saved electronically for future use.

10. Coursepacks are delivered directly to the Textbook Express after production. The instructor may request a specific number of coursepacks be held for his/her use which are picked up in Learning Technology Services.

11. Copyright fees are included in the overall cost of the coursepack sold to students in the Textbook Express. The department is billed for copyright fees if the instructor requests a copy of coursepack(s) for his/her use.
COURSEPACKS USED IN PREVIOUS SEMESTERS
1. Copyright clearance must be obtained each semester.

2. Complete the Work Requisition form. Mark changes—i.e., deleting or adding reading(s).

3. An electronic file of the coursepack is stored in College Press. Attach the “Digitally Created Files” red form that you received when coursepack was originally produced. This form indicates the location of the original file.

4. If you are adding new reading(s) to the coursepack, complete and attach the Copyright Clearance Request Form.

5. Provide the Copyright & Educational Support Specialist with a hard copy of the new reading(s) for inclusion in the coursepack.

6. Copyright clearance is secured and the instructor notified of copyright fees. Production of coursepack will not occur until fee approval is obtained from the instructor.

7. Copyright fees are included in the overall cost of the coursepack sold to students in the Textbook Express. The department is billed for copyright fees if the instructor requests a copy of coursepack(s) for his/her use.

CLASSROOM HANDOUTS
1. Copyright clearance is not required if FIRST TIME FAIR USE applies (this is the first time the material has been used in the course.)

2. Copyright clearance is required if the material was previously used in the course.

3. Instructor completes the Copyright Clearance Request Form and submits to the Copyright & Educational Support Specialist.

4. Instructor is notified of copyright fees and approves/disapproves fees.

5. The department is billed for the copyright fees for materials used as classroom handouts.

LIBRARY RESERVES
1. Copyright clearance must be obtained if more than one (1) copy of a course reading is placed on reserve.

2. Instructor completes the Copyright Clearance Request Form and submits to the Copyright & Educational Support Specialist.

3. Instructor is notified of copyright fees and approves/disapproves fees.

4. Instructor makes arrangements directly with Library Reserves regarding their course materials.

5. Copyright clearance documentation is sent to Library Reserves by the Copyright & Educational Support Specialist.

6. The department is billed for the copyright fees for materials placed on library reserve.

LEARNING MANAGEMENT SYSTEM (SAKAI), ON-LINE COURSES, AND MULTIMEDIA
1. Copyright clearance must be obtained for copyrighted documents posted in a Learning Management System such as Sakai on-line graduate and undergraduate courses.

2. Copyright clearance must be secured for any multimedia used in a course, such as DVD/Video streaming, film and television show clips, audio CD clips, and documentaries.

3. Instructor completes the Copyright Clearance Request Form and submits to The Copyright & Educational Support Specialist.

4. Instructor will be notified of copyright fees and approves/disapproves fees.

5. The department is billed for the copyright fees for use of copyrighted documents and multimedia on-line.
Photocopy Warning

NOTICE: WARNING CONCERNING
COPYRIGHT RESTRICTIONS

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 reproduction. 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 makes a request for, or later uses, a photocopy or reproduction for purposes in excess of “fair use,” that user may be liable for copyright infringement.

37 C.F.R. §201.14
Before You Copy

Make sure you know your rights and the rights of those whose work you are copying. Copyright infringement is against the law. Be certain you are not putting yourself or the College at risk.

Take a moment . . . check it out.

Information is available on-line at:

http://www.messiah.edu/offices/faculty_services/copyright/
The Copyright Clearance Request Form is available in the following formats:

- Electronic Copies can be accessed via:
  - The Faculty Services Website – [http://www.messiah.edu/offices/faculty_services/copyright/requisition_form.html](http://www.messiah.edu/offices/faculty_services/copyright/requisition_form.html)
  - The Faculty Services Channel on MC Square

Please complete the form as accurately and completely as possible. If you prefer, you may submit your requests in bibliographic format. Please be sure to include all the pertinent information that is on the Copyright Clearance Request Form.

Please return the completed form to the Copyright & Educational Support Specialist, Box 3044. A sample form follows on pp. 26-27.
# Learning Technology Services

**Copyright Clearance Request Form**

**Telephone:** (717) 691-6023  **Fax:** (717) 691-6040  **Email:** COPYRIGHT@MESSIAH.EDU

---

**Please fill in each section legibly - Duplicate Form as needed**

---

## Section I – Instructor and Course Information

<table>
<thead>
<tr>
<th>Professor Name:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
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<td></td>
<td></td>
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</tbody>
</table>

**Term/Semester (check one):**

- J-Term
- Spring
- Summer
- Fall

- Year:

- Course Name:

- Course No.

- # of Sets Needed:

---

## Section II – Use of Material

**Use of Material (check one):**

- Sold at Textbook Express (Coursepack/Reader)
- Distributed in Classroom
- Placed on Library Reserve
- Reproduction

- Electronic/Digital Form (Learning Management System (LMS), On-line course, or Internet)

- Post Date (From):

- Post Date (To):

- Other (please specify):

---

## Section III – Coursepacks, Classroom Handouts, Library Reserves (Paper Copies)

Complete as accurately and completely as possible. Duplicate form as needed.

<table>
<thead>
<tr>
<th>1</th>
<th>Book or Journal Title:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Out-of-Print Work?</td>
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<tr>
<td></td>
<td>Chapter or Article Name:</td>
</tr>
<tr>
<td></td>
<td>Author(s)/Editor(s):</td>
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<td>Publisher:</td>
</tr>
<tr>
<td></td>
<td>Publishing/Copyright Year:</td>
</tr>
<tr>
<td></td>
<td>Volume #:</td>
</tr>
<tr>
<td></td>
<td>Edition:</td>
</tr>
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<td>Page Numbers: From: To:</td>
</tr>
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<td></td>
<td>From: To: Total Pages:</td>
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<table>
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<tr>
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<td></td>
<td>Out-of-Print Work?</td>
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<td></td>
<td>Author(s)/Editor(s):</td>
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<td>Publisher:</td>
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<td></td>
<td>Publishing/Copyright Year:</td>
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<tr>
<td></td>
<td>Volume #:</td>
</tr>
<tr>
<td></td>
<td>Edition:</td>
</tr>
<tr>
<td></td>
<td>Page Numbers: From: To:</td>
</tr>
<tr>
<td></td>
<td>From: To: Total Pages:</td>
</tr>
</tbody>
</table>
### Section IV -- On-Line Course (Multimedia)

Complete this section if using DVD/Video streaming, film and television show clips, audio CD clips, and documentaries.

<table>
<thead>
<tr>
<th>1</th>
<th><strong>Title:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Publisher:</strong></td>
<td>Do students have to purchase textbook? □ Yes □ No</td>
</tr>
<tr>
<td><strong>Producer/Director:</strong></td>
<td>Does Messiah own public performance rights? □ Yes □ No</td>
</tr>
<tr>
<td><strong>Author/Writer:</strong></td>
<td>Number of students?</td>
</tr>
<tr>
<td><strong>Distributor:</strong></td>
<td>Copyright Year:</td>
</tr>
<tr>
<td><strong>Course URL:</strong></td>
<td></td>
</tr>
</tbody>
</table>

### Section V -- Electronic Distribution

Complete this section if placing copyrighted material in a course utilizing a Learning Management System (Sakai).

<table>
<thead>
<tr>
<th>1</th>
<th><strong>Book/Journal/Photograph Title:</strong></th>
</tr>
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<tbody>
<tr>
<td><strong>Chapter or Article Name:</strong></td>
<td></td>
</tr>
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<td><strong>Author(s)/Editor(s):</strong></td>
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