

TECHNICAL COLLEGE OF THE LOWCOUNTRY

PROCEDURE

PROCEDURE NUMBER: 3-1-301.20

PAGE: 1 OF 6

PROCEDURE TITLE: COPYRIGHT

BASED ON POLICY: 2-1-218

REVISION NUMBER: 4

OFFICE OF RESPONSIBILITY: ACADEMIC AFFAIRS



PRESIDENT

April 9, 2007

DATE

PURPOSE

The purpose of this procedure is to: 1) define employee and employer responsibilities for copyright compliance, 2) educate and inform College personnel on major copyright issues, 3) identify sources of copyright information and assistance for personnel, and 4) provide general guidelines for employee copyright compliance in selected areas.

PROCEDURE

1. EMPLOYEE AND EMPLOYER RESPONSIBILITIES

- A. Employees of the College are individually responsible for identifying and obtaining information about copyright requirements which relate to the performance of their duties, and for conforming to them. Employees who do not adhere to copyright requirements are acting beyond the scope of their employment, and are subject to disciplinary action. The copyright discussions, guidelines, or examples which are present in this procedure are intended to assist employees in making copyright determinations, but may not be relied upon by employees as legal advice.

- B. In partial fulfillment of the requirements of the TEACH Act, the College provides a copyright training module. All employees who are likely to create or to make

TECHNICAL COLLEGE OF THE LOWCOUNTRY

PROCEDURE

PROCEDURE NUMBER: 3-1-301.20

PAGE: 2 OF 6

extensive use of intellectual property shall receive the training upon hire. The training shall be administered by the College's Human Resources Office.

2. LEGAL BACKGROUND

- A. The foundation for copyright law is Article I, Sec. 8, of the United States Constitution. Title 17, U.S. Code, is the statutory copyright law of the United States.
- B. Section 106 of the statute describes five basic rights of copyright owners which are to reproduce (copy), to publish, to prepare derivative works, to perform, and to display their copyrighted works.
- C. Major limitations to the rights of copyright holders are set forth in Section 107 of the statute (the so-called Fair Use exemption) and in Section 110 (face-to-face teaching exemption and TEACH Act exemptions).

3. COPYRIGHT INFORMATION AND PERMISSIONS

- A. Employees are expected to consult copyright information sources as appropriate to their job requirements. These sources include, but are not limited to, the following:
 - 1. The Learning Resources Center. The LRC has books and articles on copyright, copyright guidelines, draft legislation, copyright files, permission forms, reserve forms, publisher information, and other materials. LRC staff does not provide legal advice. Employees may not rely on information provided by LRC staff as to the legality of a copyright issue.
 - 2. The Copyright statute itself (Title 17, U.S. code). The statute is available in print in the LRC or can be retrieved on Internet.
 - 3. Copyright Listservs, newsgroups, and archives. The LRC staff can provide assistance in locating and using these Internet resources.
- B. Employees are expected to obtain copyright permission as appropriate to the circumstances of the intended use. The LRC staff can provide assistance in locating and contacting copyright owners to obtain permission.

TECHNICAL COLLEGE OF THE LOWCOUNTRY

PROCEDURE

PROCEDURE NUMBER: 3-1-301.20

PAGE: 3 OF 6

4. COPYRIGHT TRAINING PROVIDED

- A. In addition to required copyright training, the College will also conduct periodic in-service for faculty and/or staff to review/update copyright information. All employee handbooks (including adjunct faculty) will contain this copyright procedure, and will be periodically updated. **Deans** will review copyright issues with adjunct faculty as appropriate, and assign them to required training if necessary.
- B. Faculty will provide information regarding copyright requirements to students by means appropriate to the course content, such as a syllabus, a posted notice on a computer, a classroom announcement, or any combination. A general notice of copyright compliance requirements will be displayed in the College catalog. Faculty teaching in areas which require significant creation of intellectual property or significant use of the intellectual property of others should be especially cognizant of the need to provide training for their students.

5. COMPUTER SOFTWARE

- A. TCL Procedure #7-1-702.5 addresses computer software.

6. AUDIOVISUAL MATERIALS

- A. The discussion which follows refers primarily to prerecorded videocassettes or dvd's. Note that any copies must be lawfully made for the Section 110 face-to-face teaching exemption to apply. This discussion does not apply to electronic transmission for distance education purposes.
- B. The terms "classroom use" and "face-to-face teaching" as used in the copyright statute in regard to audiovisual materials mean exactly that. Any use beyond the immediate classroom, or a similar place devoted to instruction, and which is not directly in the course of face-to-face teaching to enrolled students, is arguably a public performance for which the copyright holder's permission must be obtained.
- C. Most legal authorities agree that classroom use for instructional purposes of videos rented from stores is permissible, even if the tape is marked "For Home Use Only."

TECHNICAL COLLEGE OF THE LOWCOUNTRY

PROCEDURE

PROCEDURE NUMBER: 3-1-301.20

PAGE: 4 OF 6

- D. Legal opinion is divided as to whether videos which have been lawfully recorded at home by instructors may subsequently be presented in the classroom.
- E. Classroom use of videos or other audiovisual materials from the LRC collection is encouraged. Departments or units which have acquired other audiovisual materials on departmental or grant funds must ensure that appropriate performance rights are obtained upon purchase, and that performances are limited to classes.
- F. Copying of audiovisual materials for preservation or archival use may be possible under limited circumstances. Consult the LRC staff or other sources for information.
- G. Some uses of audiovisual materials which would otherwise be infringing may arguably be protected under fair use. Employees should be very cautious in relying on fair use in this area.

7. COPYING AND DISTRIBUTION OF PRINT MATERIALS

- A. For copying and distribution to "fair use," it must meet the broad tests in Section 107, as well as comply with the Classroom Guidelines requirements for spontaneity, brevity, etc.

Fair use exceptions typically do not apply to institutional uses for non-instructional purposes such as advertising, public relations, etc.

- B. In most cases, any use of course packs, anthologies, or similar collections of materials requires the permission of the copyright holder.

8. DISTANCE EDUCATION ISSUES

- A. The Section 107 fair use exception (see above) arguably applies in most distance education circumstances.
- B. The TEACH Act (revision of Sec. 110.2) allows for limited transmission and copying of specified kinds of materials under specified conditions, and replaces many of the previously existing guidelines with statutory language. All faculty and staff, but especially those working in the area of distance education, are

TECHNICAL COLLEGE OF THE LOWCOUNTRY

PROCEDURE

PROCEDURE NUMBER: 3-1-301.20

PAGE: 5 OF 6

obliged to become familiar with this act. A key provision is that transmission of copyrighted content must be exclusively for students enrolled in the course (not, therefore, for promotional purposes), and that appropriate technological means must be used to ensure that only the students enrolled in the course are able to receive the content.

- C. Students who are participating in distance learning classes transmitted live or on a delayed basis to other locations should receive course syllabi containing the following statement:

“This class is being taught in a distance learning format via the South Carolina Educational Television Network satellite system. Images and words of class participants may be transmitted live or on a delayed basis to other locations. Classes may be rebroadcast due to extenuating circumstances.”

9. LRC COPYRIGHT ISSUES

- A. Copy machines. LRC staff will post notices and will limit assistance to instructing users how to operate machines.
- B. Reserve materials.
1. Copyright compliance forms will be required for articles, anthologies, collections, etc., placed on reserve by faculty.
 2. Electronic reserves (pending).
- C. Interlibrary loan policy. LRC will follow the American Library Association model policy.
- D. In some cases the LRC may engage in copying of materials for preservation or archival purposes, as specified in the statute.

10. BOOKSTORE ISSUES

The bookstore manager will provide copyright information and assist with publisher permissions as appropriate.

TECHNICAL COLLEGE OF THE LOWCOUNTRY

PROCEDURE

PROCEDURE NUMBER: 3-1-301.20

PAGE: 6 OF 6

11. MISCELLANEOUS ISSUES

- A. Each unit or department head is responsible for posting appropriate copyright notices on equipment.
- B. Music. Any employee intending to use copyrighted music must also adhere to the published Music Guidelines.