

# **Mount Ida College COPYRIGHT GUIDELINES**

## **1. Introduction to Guidelines**

All members of the Mount Ida College community are responsible for upholding the Copyright laws of the United States. It is the intent of the College to provide guidelines for faculty (full-time, part-time and visiting), staff and students in order to facilitate compliance with the Copyright Laws of the United States. The guidelines are intended to encourage the lawful use of copyright protected material, protect the college against the risk of copyright infringement and comply with legislation, such as, the TEACH Act.

### **1.1 Copyright Definition**

Copyright means that bundle of rights that protect original works of authorship fixed in any 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.

### **1.2 Tangible Media Definition**

Tangible Media include, but are not limited to, books, periodicals, manuscripts, phonorecords, films, tapes, and disks, online courseware and software and other technologies used to support the electronic capture, storage, retrieval, transformation and presentation of digital data and information or to interface between digital forms and other communications and information media.

## **2. Copyright and Campus Network Use Policy**

The College has noted in the College Network Use Policy that faculty, staff and students "...will not violate copyright laws, including but not limited to copying and/or redistributing another's copyrighted work and students, faculty and staff will not use another person's work without correctly acknowledging him or her. Using peer-to-peer applications (such as Kazaa, Morpheus, etc) to share copyrighted materials is a violation of the Campus Network Use Policy. Users may not use computer-based applications to violate copyright laws or infringe on the copyrights of materials." (Student Handbook .61 and Mount Ida College website under Network Services). Consequences are stated in the Campus Network Use Policy: "If a Mount Ida College user violates any of these policies, procedures, and guidelines, his or her account is subject to immediate termination and future access could be denied."

## **3. Copyright and Teaching and Learning**

### **3.1 Student Responsibilities**

“Academic integrity and academic honesty are core values of our learning community.” Mount Ida College has a Code of Academic Honesty which states: “Students are expected to distinguish their ideas and work from those derived from other sources. Information derived from other sources includes published material, the opinions of others, and computer programs as well as material from Internet sources” (*Mount Ida College Catalog* 30 -31). “Violation of the Academic Honesty Code will result in appropriate disciplinary action (*Mount Ida College Catalog* 31).”

### **3.2 Fair Use**

Fair use is a legal principle that defines the limitations on the exclusive rights of copyright holders. There is no simple test to determine what is fair use. Section 107 of the Copyright Act sets forth the four fair use factors which should be considered in each instance, based on particular facts of a given case, to determine whether a use is a "fair use":

- 3.2.1 The purpose and character of use, including whether such use is of a commercial nature or is for nonprofit educational purposes
- 3.2.2 The nature of the copyrighted work
- 3.2.3 The amount and substantiality of the portion used in relation to the copyrighted work as a whole
- 3.2.4 The effect of the use upon the potential market for or value of the copyrighted work.

While only the courts can authoritatively determine whether a particular use is fair use, these guidelines outline conditions under which fair use should generally apply and examples of when permission is required. Uses that exceed these guidelines may or may not be fair use. The more one exceeds these guidelines, the greater the risk that fair use does not apply. There may be instances in which copying which does not fall within the guidelines stated below may nonetheless be permitted under the criteria of fair use.

The limitations and conditions set forth in these guidelines do not apply to works in the public domain--such as U.S. Government works or works on which copyright has expired for which there are no copyright restrictions--or to works for which the individual or institution has obtained permission for the particular use. Also, license agreements may govern the uses of some works and users should refer to the applicable license terms for guidance.

### **3.3 Checklist for Fair Use**

<http://www.copyright.iupui.edu/checklist.pdf>

## **4. Copying**

### **4.1 Single Copying for Teachers**

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

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

## **4.2 Multiple Copies for Classroom Use**

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion; provided that:

- 4.2.1 The copying meets the tests of brevity and spontaneity as defined below
- 4.2.2 Meets the cumulative effect test as defined below
- 4.2.3 Each copy includes a notice of copyright

## **5. Definitions**

### **5.1 Brevity**

- 5.1.1 Poetry:
  - (a) A complete poem if less than 250 words and if printed on not more than two pages or
  - (b) From a longer poem, an excerpt of not more than 250 words.
- 5.1.2 Prose:
  - (a) Either a complete article, story or essay of less than 2,500 words, or
  - (b) An excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in "5.1.1" and "5.1.2" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

- 5.1.3 Illustration: one chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
- 5.1.4 "Special" works: certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Section

5.1.2 above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the works found in the text thereof, may be reproduced.

## **5.2 Spontaneity**

- 5.2.1 The copying is at the instance and inspiration of the individual teacher.
- 5.2.2 The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

## **5.3 Cumulative Effect**

- 5.3.1 The copying of the material is for only one course in the school in which the copies are made.
- 5.3.2 Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
- 5.3.3 There shall not be more than nine instances of such multiple copying for one course during one class term.
- 5.3.4 The limitations stated in "2" and "3" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.

## **5.4 Prohibitions as to 4.1 and 4.2 Above**

Notwithstanding any of the above, the following shall be prohibited:

- 5.4.1 Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts are accumulated or reproduced and used separately.
- 5.4.2 There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.
- 5.4.3 Copying shall not:
  - (a) Substitute for the purchase of books, publishers' reprints or periodicals
  - (b) Be directed by higher authority
  - (c) Be repeated with respect to the same item by the same teacher from term to term.
  - (d) No charge shall be made to the student beyond the actual cost of the photocopying.

The above information regarding Sections 1 to 5.4 is from the following government publication:

Library of Congress. Copyright Office. *Circular 21: Reproduction of Copyrighted Works by Educators and Librarians*. United States Copyright Office. Washington, D.C.: U. S. Government Printing Office, 1995.

## **6. Multimedia**

### **6.1 Background**

Educators have traditionally brought copyrighted books, videos, slides, sound recordings and other media into the classroom, along with accompanying projection and playback equipment. Multimedia creators integrated these individual instructional resources with their own original works in a meaningful way, providing compact educational tools that allow great flexibility in teaching and learning. Material is stored so that it may be retrieved in a nonlinear fashion, depending on the needs or interests of learners. Educators can use multimedia projects to respond spontaneously to students' questions by referring quickly to relevant portions. In addition, students can use multimedia projects to pursue independent study according to their needs or at a pace appropriate to their capabilities.

### **6.2 Guidelines**

The purpose of these guidelines is to provide guidance on the application of fair use principles by educators, scholars and students who develop multimedia projects using portions of copyrighted works under fair use rather than by seeking authorization for non-commercial educational uses. These guidelines apply only to fair use in the context of copyright and to no other rights. Nothing in these guidelines shall be construed to apply to the fair use privilege in any context outside of educational and scholarly uses of educational multimedia projects. These guidelines shall not be read to supersede other preexisting education fair use guidelines that deal with the Copyright Act of 1976.

Educational multimedia projects created under these guidelines incorporate students' or educators' original material, such as course notes or commentary, together with various copyrighted media formats including but not limited to, motion media, music, text material, graphics, illustrations, photographs and digital software which are combined into an integrated presentation. Educational institutions are defined as nonprofit organizations whose primary focus is supporting research and instructional activities of educators and students for noncommercial purposes.

The copyrighted works used under these guidelines are lawfully acquired if obtained by the institution or individual through lawful means such as purchase, gift or license agreement but not pirated copies. Educational multimedia projects

which incorporate portions of copyrighted works under these guidelines may be used only for educational purposes in systematic learning activities including use in connection with non-commercial curriculum-based learning and teaching activities by educators to students enrolled in courses at nonprofit educational institutions or otherwise permitted. While these guidelines refer to the creation and use of educational multimedia projects, readers are advised that in some instances other fair use guidelines such as those for off-air taping may be relevant.

### **6.3 Preparation of Educational Multimedia Projects Using Portions of Copyrighted Works**

Uses of educational multimedia projects created under these guidelines are subject to the Time, Portion, Copying and Distribution Limitations listed below.

#### **6.4 Educators**

- 6.4.1 May perform and display their own educational multimedia projects for curriculum-based instruction to students in the following situations:
- (a) For face-to-face instruction
  - (b) Assigned to students for directed self-study
  - (c) For remote instruction to students enrolled in curriculum-based courses and located at remote sites, provided over the educational institution's secure electronic network in real-time, or for after class review or directed self-study, provided there are technological limitations on access to the network and educational multimedia project (such as a password or PIN) and provided further that the technology prevents the making of copies of copyrighted material.
  - (d) If the educational institution's network or technology used to access the educational multimedia project cannot prevent duplication of copyrighted material, students or educators may use the multimedia educational projects over an otherwise secure network for a period of only 15 days after its initial real-time remote use in the course of instruction or 15 days after its assignment for directed self-study. After that period, one of the two use copies of the educational multimedia project may be placed on reserve in a library or similar facility for on-site use by students enrolled in the course. Students shall be advised that they are not permitted to make their own copies of the multimedia project.
- 6.4.2 May incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia programs for their own teaching tools in support of curriculum-based instructional activities at educational institutions.

- 6.4.3 May perform or display their own multimedia projects created in presentations to their peers, for example, at workshops and conferences.
- 6.4.4 May retain educational multimedia projects created under Section 2 of these guidelines in their personal portfolios for later personal uses such as tenure review or job interviews.

## **6.5 Students**

- 6.5.1 May incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia projects for a specific course.
- 6.5.2 May perform and display their own educational multimedia projects created for educational uses in the course for which they were created and may use them in their own portfolios as examples of their academic work for later personal uses such as job and graduate school interviews

## **7. Limitations: Time, Portion, Copying and Distribution**

### **7.1 Time Limitations**

Educators may use their educational multimedia projects created for educational purposes under the guidelines for teaching courses, for a period of up to two years after the first instructional use with a class. Use beyond that time period, even for educational purposes, requires permission for each copyrighted portion incorporated in the production. Students may use their educational multimedia projects as noted above.

### **7.2 Portion Limitations**

Portion limitations mean the amount of a copyrighted work that can reasonably be used in educational multimedia projects under these guidelines regardless of the original medium from which the copyrighted works are taken. In the aggregate means the total amount of copyrighted material from a single copyrighted work that is permitted to be used in an educational multimedia project without permission under these guidelines. These limits apply cumulatively to each educator's or student's multimedia project(s) for the same academic semester, cycle or term. All students should be instructed about the reasons for copyright protection and the need to follow these guidelines.

### **7.3 Motion Media**

Up to 10% or 3 minutes, whichever is less, in the aggregate of a copyrighted motion media work may be reproduced or otherwise incorporated as part of a multimedia project created under these guidelines.

## **7.4 Text Material**

Up to 10% or 1000 words, whichever is less, in the aggregate of a copyrighted work consisting of text material may be reproduced or otherwise incorporated as part of a multimedia project created under these guidelines. An entire poem of less than 250 words may be used, but no more than three poems by one poet, or five poems by different poets from any anthology may be used. For poems of greater length, 250 words may be used but no more than three excerpts by a poet, or five excerpts by different poets from a single anthology may be used.

## **7.5 Music, Lyrics, and Music Video**

Up to 10%, but in no event more than 30 seconds, of the music and lyrics from an individual musical work (or in the aggregate of extracts from an individual work), whether the musical work is embodied in copies, or audio or audiovisual works, may be reproduced or otherwise incorporated as a part of a multimedia project created under these guidelines. Any alterations to a musical work shall not change the basic melody or the fundamental character of the work.

## **7.6 Illustrations and Photographs**

The reproduction or incorporation of photographs and illustrations is more difficult to define with regard to fair use because fair use usually precludes the use of an entire work. Under these guidelines a photograph or illustration may be used in its entirety but no more than 5 images by an artist or photographer may be reproduced or otherwise incorporated as part of an educational multimedia project created under these guidelines. When using photographs and illustrations from a published collective work, not more than 10% or 15 images, whichever is less, may be reproduced or otherwise incorporated as part of an educational multimedia project created under these guidelines.

## **7.7 Numerical Data Sets**

Up to 10% or 2500 fields or cell entries, whichever is less, from a copyrighted database or data table may be reproduced or otherwise incorporated as part of an educational multimedia project created under these guidelines. A field entry is defined as a specific item of information, such as a name or Social Security number, in a record of a database file. A cell entry is defined as the intersection where a row and a column meet on a spreadsheet.

## **7.8 Copying and Distribution Limitations**

Only a limited number of copies, including the original, may be made of an educator's educational multimedia project. There may be no more than two use copies only one of which may be placed on library reserve.

An additional copy may be made for preservation purposes but may only be used or copied to replace a use copy that has been lost, stolen, or damaged. In the case of a jointly created educational multimedia project, each principal creator may retain one copy but only for the purposes described in these guidelines.

## **8. Examples of When Permission is Required**

### **8.1 Using Multimedia Projects for Non-Educational or Commercial Purposes**

Educators and students must seek individual permissions (licenses) before using copyrighted works in educational multimedia projects for commercial reproduction and distribution.

### **8.2 Duplication of Multimedia Projects Beyond Limitations Listed in These Guidelines**

Even for educational uses, educators and students must seek individual permissions for all copyrighted works incorporated in their personally created educational multimedia projects before replicating or distributing beyond the limitations listed under Copying and Distribution Limitations in Section 7.8.

Educators and students may not use their personally created educational multimedia projects over electronic networks, except for uses as described in Section 6.4.1.c without obtaining permissions for all copyrighted works incorporated in the program.

## **9. Caution in Downloading Material from the Internet**

Educators and students are advised to exercise caution in using digital material downloaded from the Internet in producing their own educational multimedia projects, because there is a mix of works protected by copyright and works in the public domain on the network. Access to works on the Internet does not automatically mean that these can be reproduced and reused without permission or royalty payment and, furthermore, some copyrighted works may have been posted to the Internet without authorization of the copyright holder.

## **10. Attribution and Acknowledgement**

Educators and students are reminded to credit the sources and display the copyright notice © and copyright ownership information if this is shown in the original source, for all works incorporated as part of the educational multimedia projects prepared by educators and students, including those prepared under fair use. Crediting the source must adequately identify the source of the work, giving a full bibliographic description where available (including author, title, publisher, and place and date of publication). The copyright ownership information includes

the copyright notice (©, year of first publication and name of the copyright holder).

The credit and copyright notice information may be combined and shown in a separate section of the educational multimedia project (e.g. credit section) except for images incorporated into the project for the uses described in Section 6.4.1.c. In such cases, the copyright notice and the name of the creator of the image must be incorporated into the image when, and to the extent, such information is reasonably available; credit and copyright notice information is considered "incorporated" if it is attached to the image file and appears on the screen when the image is viewed. In those cases when displaying source credits and copyright ownership information on the screen with the image would be mutually exclusive with an instructional objective (e.g. during examinations in which the source credits and/or copyright information would be relevant to the examination questions), those images may be displayed without such information being simultaneously displayed on the screen. In such cases, this information should be linked to the image in a manner compatible with such instructional objectives.

### **11. Notice of Use Restrictions**

Educators and students are advised that they must include on the opening screen of their multimedia program and any accompanying print material a notice that certain materials are included under the fair use exemption of the U.S. Copyright Law and have been prepared according to the multimedia fair use guidelines and are restricted from further use.

### **12. Future Uses Beyond Fair Use**

Educators and students are advised to note that if there is a possibility that their own educational multimedia project incorporating copyrighted works under fair use could later result in broader dissemination, whether or not as a commercial product, it is strongly recommended that they take steps to obtain permissions during the development process for all copyrighted portions rather than waiting until after completion of the project.

### **13. Integrity of Copyrighted Works: Alterations**

Educators and students may make alterations in the portions of the copyrighted works they incorporate as part of an educational multimedia project only if the alterations support specific instructional objectives. Educators and students are advised to note that alterations have been made.

### **14. Reproduction or Decompilation of Copyrighted Computer Programs**

Educators and students should be aware that reproduction or decompilation of copyrighted computer programs and portions thereof, for example the transfer of

underlying code or control mechanisms, even for educational uses, are outside the scope of these guidelines.

## **15. Licenses and Contracts**

Educators and students should determine whether specific copyrighted works, or other data or information are subject to a license or contract. Fair use and these guidelines shall not preempt or supersede licenses and contractual obligations.

The above information regarding Sections 6 through 15 was excerpted with permission from the following website:

*The Conference on Fair Use. Fair Use Guidelines for Educational Multimedia. University of Texas System, August 21, 2007.*

<http://www.utsystem.edu/OGC/IntellectualProperty/ccmcguid.htm>

## **16. Copyright and e-Learning**

The TEACH Act (Technology, Education, And Copyright Harmonization Act) outlines the terms and limitations of transmitting copyrighted information in a distance learning environment.

## **16.1 Criteria for Using Material under the TEACH Act**

- 16.1.1 Non- profit accredited educational institution
- 16.1.2 Course is part of College's offerings
- 16.1.3 Follow College copyright policy
- 16.1.4 Notify students of copyright issues
- 16.1.5 Copyright information is displayed on all materials copied or digitized.
- 16.1.6 Crediting the source must adequately identify the source of the work, giving a full bibliographic description where available (including author, title, publisher, and place and date of publication). The copyright ownership information includes the copyright notice (©, year of first publication and name of the copyright holder.
- 16.1.7 Materials uploaded are only for students' use in class
- 16.1.8 Materials assist in the teaching of content
- 16.1.9 Faculty directs use of materials
- 16.1.10 Technology will be used to reasonably limit students' ability to download, copy, print, share, modify, retain or further distribute the materials, except for what is permitted within the guidelines.
- 16.1.11 Materials will be available for a period of time related to the context of a class.

## **16.2 Copying Works**

The following types and portions of work can be copied:

- 16.2.1 Performance of nondramatic literary works (poetry, short story reading).
- 16.2.2 Performance of nondramatic musical works (includes all music except opera, music videos and musicals).
- 16.2.3 Performances of any other work, including dramatic works and audiovisual works, but only in "reasonable and limited portions."
- 16.2.4 Displays of any work in amounts comparable to "face-to-face" displays. (images).
- 16.2.5 Works within the context of a "mediated instructional activity" not reserves and outside readings.
- 16.2.6 May digitize an analog format if not available digitally or access is prevented or restricted through technology

## **16.3 Posting Materials on the Web**

You may post materials in your web course only if:

- 16.3.1 You are the copyright owner of the material
- 16.3.2 You have permission from the copyright owner
- 16.3.3 The material is in the public domain
- 16.3.4 The use of the material complies with "Fair Use" or is under another statutory exception.

The above information is based with permission on the following guidelines:  
The Conference on Fair Use. *Fair Use Guidelines for Educational Multimedia*.  
University of Texas System. 21 August 2007  
<http://www.utsystem.edu/OGC/intellectualProperty/teachact.htm>

## **17. Library Reserves**

Mount Ida College believes that the above guidelines apply to the library reserves to the extent it functions as an extension of classroom readings or reflects on individual student's right to photocopy for his or her personal scholastic use under the doctrine of fair use. In general, photocopied materials maybe placed on reserve for the convenience of students both in preparing class assignments and in pursuing informal educational activities which higher education requires, such as advanced independent study and research.

### **17.1 Guidelines Regarding Library Reserves**

- 17.1.1 At the request of a faculty member, materials may be placed on Reserve for student use.
- 17.1.2 Items placed on Reserve must either be owned by the Library or be purchased or legally reproduced personal copies.
- 17.1.3 The Library will not place materials borrowed from other libraries on Reserve.
- 17.1.4 All Reserve material will be removed every semester.
- 17.1.5 If there is a concern about damage to a media item, a copy may be made. The original, however, must be held at the Circulation Desk while the copy is on reserve to comply with copyright laws.
- 17.1.6 All Reserve items will be taken off Reserve at the end of each semester in order to abide by the Copyright Laws. If you are planning on using items from semester to semester, copyright permissions must be secured.
- 17.1.7 Requests for multiple copies on reserve should meet the following guidelines:
  - (a) The amount of material should be reasonable in relation to the total amount of material assigned for one term of a course taking into account the nature of the course, its subject matter and level, 17 U.S.C. SS107(1) and (3);
  - (b) The number of copies should be reasonable in light of the number of students enrolled, the difficulty and timing of assignments, and the number of other courses which may assign the same material, 17 U.S.C. SS107(1) and (3).
  - (c) The material should contain a notice of copyright, see 17 U.S.C. SS401;
  - (d) The effect of photocopying the material should not be detrimental to the market for the work. (If the library does not

own a copy of the work, a librarian will contact the faculty member and discuss purchase of the item) 17 U.S.C. SS107(4).

## **18. Uses of Photocopied Material Requiring Permission**

### **18.1 Repetitive Copying**

The classroom or reserve use of photocopied materials in multiple courses or successive years will normally require advance permission from the owner of the copyright, 17 U.S.C. SS107(3).

### **18.2 Copying for Profit**

Faculty should not charge students more than the actual cost of photocopying the material, 17 U.S.C. SS107(1).

### **18.3 Consumable Works**

The duplication of works that are consumed in the classroom, such as standardized tests, exercises, and workbooks, normally requires permission from the copyright owner, 17 U.S.C. SS107(4).

### **18.4 Creation of Anthologies as Basic Text Material for a Course**

Creation of a collective work or anthology by photocopying a number of copyrighted articles and excerpts to be purchased and used together as the basic text for a course will in most instances require the permission of the copyrighted owners. Such photocopying of a book and thus less likely to be deemed fair use, 17 U.S.C. SS107(4).

## **19. How to Obtain Permission**

When a use of photocopied material requires that you request permission, you should communicate complete and accurate information to the copyright owner.

The process of granting permission requires time for the publisher to check the status of the copyright and to evaluate the nature of the request. It is advisable, therefore, to allow enough lead time to obtain permission before the materials are needed. In some instances, the publisher may assess a fee for the permission. It is not inappropriate to pass this fee on to the student who receive copies of the photocopied material.

The Copyright Clearance Center also has the right to grant permission and collect fees for photocopying rights for certain publications. Libraries may copy from any journal which is registered with the CCC and report the copying beyond fair use to CCC and pay the set fee. Please contact Marge Lippincott, Dean of

Information Technology and Learning Resources, with any questions regarding obtaining copyright permission.

The above information in Sections 17 through 19 was excerpted with permission from the following website:

Coalition for Networked Information: *Information Policies: A Compilation of Position Statements, Principles, Statutes, and Other Pertinent Statements.*

American Library Association. 27 August 2007

<http://www.cni.org/docs/infopols/ALA.html>

The above document refers to the:

*Copyright Law of the United States and related laws contained in Title 17 of the United Code.* U.S. Copyright Office. 27 August 2007

<http://www.copyright.gov/title17/>