

Davis Applied Technology College
Copyright Policy
Training Division

Board Approval: 24 April 2008

1. Purpose

- 1.1 The purpose of this policy is to define and outline the respective rights that all personnel of the Davis Applied Technology College (College) have in creating and using copyrighted works during the course of their affiliation with the College.

2. References

- 2.1 College Intellectual Property Policy
- 2.2 U.S. Copyright Act, Title 17 of the U.S. Code, Sections 106 and 107.
- 2.3 U.S. Copyright Office Circular 21 *Reproduction of Copyrighted Works by Educators and Librarians*.

3. Definitions

- 3.1 **Copyright** – Copyright is the legal right of the owner of an intellectual or creative work to control the copying, modification, distribution and display of that work. Copyright protects the expression of ideas fixed in a tangible medium, but not the ideas that the expression embodies.
- 3.2 **Creator** – The person or persons who make a significant contribution to the conception and/or development of intellectual property, including full and part-time faculty, staff, and students.
- 3.3 **Intellectual Property** – Work created through intellectual or discovery efforts of the creator that are protectable under patent, trademark, copyright, trade secret, or other state and/or federal law. Such property includes, but is not limited to: inventions, discoveries, trade secrets, trade and service marks, writing, art work, musical compositions and performances, copyrightable software, data and mask works, literary works, and architecture. Also included are multimedia works and various other forms of electronic communications, as well as other such works that are not specifically listed above.
- 3.4 **Owner** – The person, persons, or organization that owns or controls the rights to sell, assign, distribute, or license the use of intellectual property.

- 3.5 **Work** – Work is the material that can be protected under copyright law, or any statute enacted in the future that governs the protection of intellectual property, and is based on principles similar to the principles of governing copyright.

4. Copyright

- 4.1 Instructors who use copyrighted material beyond the scope of Fair Use, described later in this policy, will contact the copyright owner for permission and include citation and reference when using the material. Although permission does not need to be obtained to use non-copyrighted works, credit should be given to the author(s) as a matter of courtesy.
- 4.1.1 Works that are copyrighted and eligible for copyright protection include: literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; architectural works; works created by state and local governments; similar works not defined above.
- 4.1.2 Works that are not eligible for copyright protection include: titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents; ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration; works consisting entirely of information that is common property and containing no original authorship such as standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources; and works created by the federal government.
- 4.2 Copyrightable material produced under grants or contracts from an external funding source shall be subject to conditions of the contract or grant with respect to ownership, distribution, use, other residual rights, and shall be used and disseminated in compliance with all applicable laws.
- 4.3 The creator shall promptly disclose to the Fiscal Services Division the creation of any work in which the College has an ownership interest as provided in this policy. The creator of the work owned by the College shall promptly execute an assignment of all their rights to the College when requested to do so by the administration. The creator shall cooperate fully with the College and with fiscal services in further protection, promotion or dissemination of the work. The College will promptly execute and transfer copyright ownership or other agreements needed to carry out this policy.
- 4.4 Course materials will be appropriately cited or written permission obtained for the use of copyrighted materials in course curriculum.

5. Fair Use

Fair use allows the limited use of copyrighted material permission from the rights holder(s) for educational purposes. The purpose, nature of copyrighted work, amount, and effect determine if use of a work is fair, as follows:

5.1. Purpose

- 5.1.1. Allowable purposes include teaching, including multiple copies for classroom use, research, scholarship, and criticism or comment.
- 5.1.2. Prohibited purposes include commercial activity, profiting from the use of copyrighted material, entertainment, bad-faith behavior, and denying credit to the original author.

5.2. Nature

- 5.2.1. Favorable natures for copyrighted material include published works, factual or nonfiction based works, and works that are important to educational objectives.
- 5.2.2. Non-favorable natures for copyrighted material include unpublished works, highly creative works such as art, music, and novels, and fiction works.

5.3. Amount

- 5.3.1. Fair use allows the use of a small quantity of the work, a portion of the work that is not central or significant to the work, and an amount of the work that is appropriate for the educational objectives.
- 5.3.2. Fair use does not allow the use of a large portion or a whole work to be used, or the use of the central or significant portion of the work.

5.4. Effect

- 5.4.1. Fair use is acceptable if the user obtains a lawfully acquired or purchased copy of the original work; the user makes one copy for a teacher, or one copy *per* student in a particular class; and/or using the copyrighted material will *not* have a significant effect on the market or potential market for the copyrighted work or compete with a similar product marketed by the copyright holder.

6. TEACH Act

The Technology, Education and Copyright Harmonization Act of 2002 clarifies what faculty and students will abide by in order to be in compliance with copyright law when dealing with

distance education. The act permits the use of copyright works as part of a course if the following conditions are met.

- 6.1. The work to be transmitted may be any of the following:
 - 6.1.1. Performance of a non-dramatic literary work.
 - 6.1.2. Performance of a non-dramatic musical work.
 - 6.1.3. Performance of any other work, including dramatic works and audiovisual works, but only in reasonable and limited portions.
 - 6.1.4. A display in an amount comparable to that which is typically displayed in the course of a live classroom session.
- 6.2. The work to be transmitted may not be any of the following:
 - 6.2.1. Marketed primarily for the performance or display as part of a digitally transmitted mediated instructional activity.
 - 6.2.2. A textbook, course packet, or other material in any media which is typically purchased or acquired by students for their independent use and retention.
- 6.3. Any permitted performance or display will be both:
 - 6.3.1. Made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic, mediated instructional activities of the educational institution; and,
 - 6.3.2. Directly related and of material assistance to the teaching content of the transmission.
- 6.4. The institution does not know or have a reason to believe that the copy of the work to be transmitted was not lawfully made or acquired.
- 6.5. If the work to be used has to be converted from print or another analog version to a digital format, then both:
 - 6.5.1. The amount of work to be converted is no greater than the amount that can lawfully be used for the course; and,
 - 6.5.2. There is no digital version of the work available to the institution or the digital version available to the institution has technological protection that prevents its lawful use for the course.