

III 00 07 STUDENT COPYRIGHT INFRINGEMENT

Purpose

This policy has been established to comply with federal regulations (34 CFR §668.14, 34 CFR §668.41, and 34 C.F.R. §668.43) as it relates to providing Student Consumer Information.

Volunteer State Community College is committed to compliance with the U.S. copyright law and the protection of intellectual property in classrooms, offices, and library. Violation or infringement of the U.S. Copyright Act (Title 17, U.S. Code) can result in both criminal and civil liabilities and penalties. The information provided below is a guideline; the complete U.S. Copyright Act can be found online at <http://www.copyright.gov/title17/>.

General Policy

The U.S. Copyright Act protects copyright holders as authors of original works to exclusive rights (Title 17, Sec. 106) of the U.S. Code. The original works may exist within varying forms of media such as written documents, books, magazines, journals, newsletters, maps, photographs, audio and video files, computer files, etc. Copyright law does not protect facts, ideas, or data.

a. Copyright holders are entitled to the following rights:

- The right to create or reproduce copies of those works.
- The right to create modified or derivative works from an original work
- The right to make that work available to the public
- The right to present or display the work publicly
- The right to perform the work for the public

Overall, the copyright holder's exclusive rights make it unlawful to transmit copyrighted work over the Internet without the permission of the copyright holder. The exception to this rule is those cases that fall within the Fair Use guidelines. However, individuals and institutions may copy, display, and make use of copyrighted materials provided they obtain permission from the copyright holder.

Copyrighted materials may be copied, displayed, and used without permission from the copyright holder as long as it is within the guidelines of the Fair Use provisions of the Copyright Act (Title 17, Sec. 107) of the U.S. Code. A work is likely to fall within the Fair Use provision if it involves teaching, news reporting, criticism, commenting, or used for research and scholarship purposes.

b. Examples of the "Fair Use" guidelines are as follows:

- The use of the material is of a non-profit and educational nature rather than intended for commercial purposes.

- The work is of a scholarly or factual nature rather than primarily expressive or fictional.
- Only a small portion of the work is used rather than a large portion or the entire work.
- The use of the copyrighted material does not have a negative impact upon its market value.

c. Classroom Use of Copyrighted Material

Students and instructors may display or perform copyrighted works in a face-to-face classroom setting in accordance with the Copyright Act (Title 17, Sec. 110(1)) of the U.S. Code. This includes the display of images, motion pictures, musicals, theatrical works, or audio visual works. These items however, should not be displayed if it is believed that they were unlawfully created or acquired.

Sec. 110(1) provisions apply only to face to face classroom settings. Limited distribution of copies of some copyrighted material may be done by an instructor without permission under the fair use guidelines.

The use of library owned video recordings are permissible in the classroom setting when shown by faculty for face-to-face educational purposes.

d. Copyrighted Materials in the Library

Any copying done in the library must adhere to the Copyright Act of 1976 (Title 17, Sec. 107-108 of the U.S. Code) and fall within the Fair Use guidelines.

Students may freely make copies of instructional materials when directed by the faculty as long as the materials are the exclusive property of the faculty member. Single copies of articles from journals may be made for educational and instructional purposes. Single copies of books may be permitted provided that the copies do not exceed ten percent of the book.

It may be a copyright violation however if assignments are repeatedly copied from a book or if copies are made from consumable workbooks without permission. Making multiple copies from books for distribution without permission may also be a copyright infringement.

e. Technology-based Deterrents

Volunteer State Community College prohibits the misuse or abuse of computer resources, and does not permit students to use College resources to illegally download or share copyrighted digital files. Additionally, the College strongly discourages students from using their personal resources to do the same. The College has developed technology-based deterrents to reduce or block illegal file sharing on campus. These deterrents include the IT Department blocking all P2P traffic on the external and internal firewalls.

Additionally the IT Department monitors the network usage for large downloads which could indicate films or music being downloaded on the campus.

f. Unauthorized Distribution of Copyrighted Material

If at any time a student or employee is found to be in violation of the U.S. Copyright Act (Title 17, U.S. Code) sanctions will be imposed. Students and employees of the College are hereby notified that engaging in acts of unauthorized copying, performance and distribution of copyrighted material, including but not limited to, unauthorized peer to peer file sharing, may subject them to institutional disciplinary sanctions as well as civil and criminal penalties. For students, institutional sanctions up to, and including, expulsion from the institution may be imposed, as set forth in VSCC Policy III:00:05. For employees, sanctions can include any appropriate employment action up to, and including, the termination of employment. Finally, both students and employees may be subject to the immediate suspension of any or all of the user's account, network access, and internet access.

The law also provides for both criminal and civil penalties for violations of copyright. Willful copyright infringement may result in criminal sanctions, including imprisonment for up to five (5) years and fines up to \$250,000.00 per offense. The potential civil penalties as set forth in the federal copyright law for violations of the copyright include, but are not limited to, imposition of an award of statutory damages for all infringements involved in the action, with respect to any one (1) work in a sum of not less than seven hundred fifty dollars (\$750.00) or more than thirty thousand dollars (\$30,000.00) as the court considers just and if the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than one hundred fifty thousand dollars (\$150,000.00) per violation. The court can also impose injunctive relief against the infringer to prevent or restrain infringement of a copyright, require forfeiture, impoundment, or destruction of the infringing articles/material in the possession of the infringer and require payment of actual damages and disgorgement of any profit; as well as payment of costs and attorney's fees.

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