

PIERPONT COMMUNITY & TECHNICAL COLLEGE
Board of Governors Policies and Procedures
POLICY # 55
TITLE: COPYRIGHT POLICY

Effective Date: December 13, 2007

Amended:

Repealed:

SECTION 1: GENERAL

1.1 REASON FOR THE POLICY

The purpose of the Pierpont Community & Technical College Copyright Policy is to provide a summary of copyright law as it relates to the use of copyright-protected works in the classroom, the library, and throughout the Pierpont campus community. The policy is designed to provide guidelines and procedures for obtaining copyright permission to use these works.

There are many gray areas surrounding U.S. copyright law. The goal of this policy is to provide Pierpont faculty, librarians, students, administrators, employees, and others with a standard approach for addressing complex copyright issues. The policy covers classroom issues such as photocopying, online and distance education, and course packs. It also covers library uses for print and electronic reserves, interlibrary loan, and document delivery.

While this policy provides practical advice and procedures on copyright-related matters, it is not a substitute for legal advice that should be obtained when necessary. In order to be more efficient in administering copyright-related procedures and policies, Pierpont has established a Copyright Office. This office serves as the official recipient for reports of infringement and the source of “take down notices” for electronic content in the event such a notice is received. The office serves as the registered copyright agent and manages the ongoing coordination of copyright permissions and intellectual property issues.

1.2 POLICY STATEMENT AND REGULATORY COMPLIANCE

It is the policy of Pierpont Community & Technical College that all members of the college community must comply with U.S. copyright law.

Copyrighted materials may be copied freely by the owner of the copyright on the materials.

SECTION 2: COPYRIGHT BASICS

2.1 What Is Copyright?

Copyright is an area of law that provides creators and distributors of creative works with an incentive to share their works by granting them the right to be compensated when others use those works in certain ways. Specific rights are granted to the creators of creative works through the U.S. Copyright Act (Title 17, U. S. Code). If an individual wishing to use a work is not the copyright holder for that specific work, as determined by law, the individual ordinarily must obtain copyright permission in order to reuse or reproduce that work. There are exceptions in the Copyright Act for certain academic uses, and permission is not required for certain other actions, such as reading or borrowing original literary works from a library collection.

2.2 Key Definitions

When used in this policy statement, the term **Copyright** shall be understood to mean 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. **Works of authorship** (including computer programs) include, but are not limited to the following: literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculptural works (photographs, prints, diagrams, models, and technical drawings); motion pictures and other audiovisual works; sound recordings; and architectural works; and original data. **Tangible media** include, but are not limited to, course materials (including syllabuses, student assignments, lesson plans); online courses, course packs, books, periodicals, manuscripts, CD recordings, films, tapes, and computer disks.

The following definitions are presented in Section 101 of Title 17 and are of use in understanding the aspects of Copyright law.

- **Literary works** are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.
- **Pictorial, graphic, and sculptural works** include two-dimensional and three-dimensional works of fine, graphic, and applied art; photographs, prints and art reproductions; maps, globes, charts, diagrams, models, and technical drawings, including architectural plans. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.
- **Sound recordings** are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.
- A work is **created** when it is fixed in a copy for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.
- A work is **fixed** in a tangible medium of expression when its embodiment in a copy, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is “fixed” for purposes of this title if a fixation of the work is being made simultaneously with its transmission.
- A **pseudonymous work** is a work on the copies of which the author is identified under a fictitious name. The author under his/her real name would hold the copyright barring any contracts or stipulations to the contrary.

- A **collective work** is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.
- A **compilation** is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term compilation includes collective works.
- A **derivative work** is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications, which, as a whole, represent an original work of authorship, is a derivative work.
- A **joint work** is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

2.3 What Is Protected by Copyright?

Rights granted by the Copyright Act are intended to benefit the creators of original works of authorship, including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations. This may be interpreted to mean that virtually any creative printed work, including books, magazines, journals, newsletters, maps, charts, photographs, graphic materials, other printed materials, and unpublished materials, such as analysts' and consultants' reports, are protected by copyright. Copyright protection also extends to non-print materials including electronic content, computer programs and other software, sound recordings, motion pictures, video files, sculptures, and other artistic works. Among the exclusive rights granted to those authors are the rights to reproduce, distribute, publicly perform, and publicly display their works.

These rights provide copyright holders control over the use of their creations and an ability to benefit, monetarily and otherwise, from the use of their works. Copyright also protects the right to "make a derivative work," such as a movie from a book; the right to include a work in a collective work, such as publishing an article in a book or journals; and the rights of attribution and integrity for authors of certain works of visual art. Copyright law does not protect ideas, data, or facts.

In the U.S., the general rule of copyright duration for a work created on or after January 1, 1978, is the author's life plus 70 years after the author's death. Works created by companies or other types of organizations generally have a copyright term of 95 years. The following chart may be used as a guideline for determining when works pass into public domain.

2.4 When works pass into the public domain

DATE OF WORK	PROTECTED	TERM
Published before 1923	Now in Public Domain	None
Published from 1923-1963	When published with notice	28 years + could be renewed for 47 years, now extended by 20 years for a total renewal of 67 years. If not so renewed, now in public domain.
Published from 1964-1977	When published with notice	28 years for first term; now automatic extension of 67 years for second term
Created before 1-1-78, but not published	1-1-78, the effective date of the 1976 Act, which eliminated common law copyright	Life + 70 years or 12-31-2002, whichever is greater
Created before 1-1-78 but published between then and 12-21-2002	1-1-78, the effective date of the 1976 Copyright Act, which eliminated common law copyright	Life + 70 years or 12-31-2047 whichever is greater
Created 1-1-78 or after	When work is fixed in tangible medium of expression	Life + 70 years (or if work of corporate author-ship, the shorter of 95 years from publication, or 120 years from creation)

[Adapted, on the basis of 1998 amendments to 1976 copyright law, from Libraries and Copyright: Copyright Law in the 1990s, Laura N. Gasaway and Sarah K. Wiant (Washington, D.C.: Special Library Association, © 1994)]

2.5 What can be Copyrighted?

Pierpont fully supports the development, production, and dissemination of intellectual property by its faculty members, students, administrators, and administrative staff. Pierpont believes that the public interest is best served by creating an intellectual environment in which creative efforts and innovations are encouraged and rewarded, while still retaining for the College reasonable access to, and use of, the intellectual property for whose creation the College has provided some form of assistance.

(In the development and promulgation of the Pierpont Community & Technical College Intellectual Property Policy considerable use has been made of the suggestions/guidelines of the American Association of University Professors (AAUP) and of the American Federation of Teachers Higher Education (AFT.)

The intellectual property policy of Pierpont Community & Technical College

- o seeks to protect and promote the valued and traditional academic freedom of Pierpont's faculty, staff, and students in matters of the creation of intellectual property;
- o seeks to balance fairly and reasonably the rights of authors, sponsors, and Pierpont;
- O seeks to ensure that any copyrightable material in which Pierpont has an interest is utilized in a manner consistent with the public good.

This copyright statement takes as its guiding assumption that the person (or persons) who create the intellectual property, shall solely and exclusively own the intellectual property. [As the AAUP Statement on Copyright points out, "It has been the prevailing academic practice to treat the faculty/staff member as the copyright owner of works that are created independently and at the faculty/staff member's own initiative for traditional academic purposes."]. In this respect, Pierpont recognizes and reaffirms the traditional academic freedom of its faculty and staff to publish freely without restriction. In keeping with this philosophy, Pierpont will neither construe the provision of office space or library facilities as constituting significant use of university space or facilities, nor will it construe the payment of salary from instructional accounts as constituting significant use of university funds, except for those situations where the funds were paid specifically to support the development of such material.

2.6 Who Owns the Intellectual Property Copyright?

There are four limited and expressly defined sets of circumstances where Pierpont may claim ownership of the copyright.

- Special works created in circumstances that may properly be regarded as **made for hire**. (See the AAUP *Statement on Copyright* for an extended discussion of work for hire). A work will not be treated as **made for hire** merely because it is created with the use of University resources, facilities, or materials of the sort traditionally and commonly made available to faculty members]
- Negotiated contractual transfers
- **Joint works** as described in the Copyright Act, where the institution can be considered a co author
- Copyright ownership of all materials (including software, but excluding theses) which are developed in the course of or pursuant to a sponsored research grant, contract, or other agreement.

2.6.1 Pierpont shall have **exclusive ownership** of copyright only in the following 3 circumstances:

- The College expressly directs a faculty member, administrator or staff member to create a specified work, or the work is created as a specific requirement of employment or as an assigned institutional duty that may, for example, be included in a written job description or an employment agreement. Under these circumstances, the product would be developed as a **work for hire** and commissioned by the College and specified as such in a written contract or other appropriate document. Under these special circumstances, the

work shall be owned solely by the College both in copyright and distribution. The College has the responsibility for the registration of copyrightable works for which it has

exclusive ownership. The College recognizes two exceptions to the “work for hire” relationship it may have with a faculty member under a specific contractual relationship. Exceptions:

1. Online courses developed through the College’s established online course development grant program, whereby a faculty member is provided a stipend for course development and first-time delivery of the course are not considered works for hire in this policy, but rather are considered to be jointly owned by the faculty creator and the College. (Please refer to section on joint ownership.)
2. Intellectual property, of any kind, created by a faculty member during a formal sabbatical leave that is wholly or partially funded by the College will be solely and exclusively owned by the faculty member who created it. The faculty member will retain all copyright ownership privileges including all royalty rights.

- The creator of the work in question has voluntarily transferred the copyright, in whole or in part to the institution. Such transfer shall be in the form of a written document signed by the creator.
- Ownership of material created as a result of a sponsored research grant, contract or other agreement shall be determined in accordance with the terms of the sponsored research or other agreement. In the absence of such terms, the copyright shall become the property of the College. Normally, research contracts sponsored by the various agencies of the federal government provide the government with specific rights to the copyrightable material developed in the performance of the research. These rights may consist of title to such data vesting solely in the federal government or the reservation of a royalty-free license to the government, with title vesting in the College. In some cases, the federal government prohibits any private copyright ownership. Grants and other types of sponsored research agreements, whether by a governmental agency or private industry, may, on the other hand, provide no specific provision concerning the rights in such material.

2.6.2 Pierpont shall have **joint ownership** in the following circumstance:

- The College has contributed to a **joint work** under the Copyright Act. The institution can exercise joint ownership under this clause when it has contributed specialized services, facilities and additional compensation for the production of the work that goes beyond what is traditionally provided to faculty members generally in the preparation of their course materials. Such arrangement is to be agreed to in writing, in advance, and in full conformance with other provisions of copyright law. The College, would, in reality, have a limited license to use the stated work permitting it to use the “joint work” for the benefit of its students and employees. It would not have the right to the distribution or commercialization of the work, nor could it make any modifications to the work, the exception being appropriate updating of informational materials associated with courses of any kind. Changes in course content or pedagogy would not be permitted under this joint ownership policy. Specialized services include a developmental stipend, release time, specialized technical support, specialized hardware/software (purchased by the College for the specific project), copyright clearances, student employment support, including graduate assistant support. In these instances, the creator of the work (as identified under explanation of “Works of Authorship” shall retain the rights to intellectual property (copyright) contained therein but distribution or commercialization of the work requires the consent of the creator and the College. As the intellectual property owner, the creator has the exclusive right of revision and/or creation of derivative works. Revision of course (face to face, hybrid or fully online) content would

be required solely at the discretion of the academic unit that offers the course or in response to changes in the technology used to offer the course. The College would have no proprietary interests in any creative work of any kind unless specific contractual agreements are made with the creator prior to actual development. Any and all royalty income from the marketing of any work of commercial value shall belong solely to the creator. The College will lay no claim to such royalties.

- As stated earlier, online courses developed through the College's established online course development grant, whereby a faculty member is provided a stipend for course development and first-time delivery of the course shall be joint ownership in the limited way described in this statement.

2.7 Who May Use Intellectual Property?

College policy allows for Pierpont to use works created by faculty members without charge for educational and administrative purposes within the institution, including distance education through online courses. Faculty members are encouraged to include such uses in their agreements transferring copyright for such works to a publisher. These uses enable the College to operate more efficiently for such purposes as complying with accreditation agency requests, but do not infringe on legitimate faculty rights.

Material created for ordinary teaching use in the classroom and in department programs, such as syllabuses, assignments, and tests shall remain the property of the faculty author, but the College shall be permitted to use such material for internal instructional, distance education and administrative purposes, including satisfying requests of accreditation agencies for faculty authored syllabuses and course descriptions. In any agreement transferring copyright for such works to a publisher, faculty authors are urged to seek to provide rights for the College to use such works for internal instructional, educational, and administrative purposes.

2.8 Ownership of student created works

Pierpont treats intellectual property created by students in the same manner that it does intellectual property created by faculty.

Theses created by students shall be governed by the following provisions:

- Copyright ownership of theses generated by research which is performed in whole or in part by the student with financial support in the form of wages, salaries, stipend, or grant from funds administered by the College shall be determined in accordance with the terms of the support agreement, or in the absence of such terms, shall become the property of Pierpont.
- Copyright ownership of theses generated by research performed in whole or in part utilizing equipment or facilities provided to Pierpont under conditions that impose copyright restriction shall be determined in accordance with such restrictions.
- Copyright ownership of theses, not within the previous provisions of this policy, shall be the property of the author. However, the student must, as a condition of a degree award, grant royalty-free permission to Pierpont to reproduce and publicly distribute copies of the thesis.

2.9 COPYRIGHT ROYALTIES

1. Royalty income received by Pierpont through the sale, licensing, leasing or use of copyrightable material in which the College has acquired a copyright interest, will be shared with the author, the author's school and department.

Questions of authorship that cannot be resolved by the chairperson of the originating department shall be directed to the Copyright Office for review and resolution. The accumulated gross royalties received by Pierpont will usually be distributed as follows:

- a. 50% to the author(s)*;
- b. 30% to the College;
- c. 10% to the originating department;
- d. 10% to the originating school.

*Any revenues generated from copyright royalties that would be due Pierpont would be received by the Fairmont State Foundation and distributed according to the delineated schedule.

Where, after review, authorship cannot be determined, the percent share of royalties intended for the author shall be distributed instead to the originating department. (As used herein, the phrase "originating department" means the department, laboratory or center which administered the funds, space or facilities used in developing the copyrightable material.)

The College reserves the right as its discretion to deduct from gross royalty income prior to any such distribution, expenses such as litigation which may be incurred in enforcing or defending the copyright or in licensing the copyrightable material.

Publications not prepared within the scope of a College employee's duties are excluded from the ownership provisions of this category. Textbooks developed through the use of classes are excluded from the provisions of this category, unless such textbooks are developed using the College-administered funds paid specifically to support such textbook development.

2.10 COPYRIGHT AGREEMENTS

The policies set forth above constitute an understanding which is binding on Pierpont faculty, staff, and students, as a condition of their participating in Pierpont's research programs or their use of funds, space, or facilities. Where Pierpont may have an obligation to assign rights in copyrights to a sponsor, or may itself acquire rights under this policy, it will require a formal copyright agreement.

2.11 How to Obtain Copyright Permission

If a use falls under a copyright exemption or is subject to fair use, there is no need to gain permission.

In all other cases, and even sometimes when an individual may think it is fair use but still wants to be safe, permission of the copyright owner should be requested before making use of the material. If the owner says no, and the specific use is not within fair use, the material may not be used. If the

owner says no, and the specific use is within the fair use guidelines, the material may be used, but the instructor may have to go to court to defend its use.

Permission to use copyright-protected materials, when required, should be obtained prior to using those materials. It is advisable to obtain permission in writing (including email) and to ensure that the Pierpont Copyright Office has a copy of each permission form or letter.

A request for permission to use copyrighted materials should contain a brief description of the material to be used and how it will be used. A space should be left so that the recipient can sign the form and return it to grant permission. No response is not permission; in fact, no response should be treated as a lack of permission. Otherwise, use of the materials must be at the risk of the user.

The time to obtain permission may vary and, where possible, it is recommended that the permissions procedure start at least six months prior to the time that use of the materials is desired. The Copyright Clearance Center is the fastest resource for obtaining copyright permission.

Information to be included in the request for permission:

- Title of the material
- Creator/author of the material
- Publisher of the material
- Description of the material
- ISBN or ISSN, if applicable
- Date of publication, if applicable
- Purpose for which the requestor wants to reproduce the item (research, educational, etc.)
- How the material is to be reproduced (e.g., photocopied, digitized)
- Where the reproduced material will be used or will appear and for how long

SECTION 3: FAIR USE

The doctrine of fair use, embedded in section 107 of the Copyright Act of 1976, addresses the needs of scholars and students by limiting the rights of copyright ownership. However, what constitutes fair use is expressed in the form of guidelines rather than explicit rules.

Four Guiding Principles

To determine fair use, four factors must be considered:

1. The **purpose and character** of the use, including whether the copied material will be for nonprofit, educational, or commercial use. While this factor at first seems reassuring to educators, several courts have held that the absence of financial gain is insufficient for a finding of fair use.
2. The **nature** of the copyrighted work, with special consideration given to the distinction

between a creative work and an informational work. For example, photocopies made of a newspaper or newsmagazine column are more likely to be considered fair use than copies of a musical score or a short story. Duplication of material originally developed for classroom consumption is less likely to be a fair use than is the duplication of materials prepared for public consumption. For example, a teacher who photocopies a workbook page or a textbook chapter is depriving the copyright owner of profits more directly than if copying one page from the daily newspaper.

3. The **amount, substantiality, or portion** used in relation to the copyrighted work as a whole. This factor requires consideration of 1) the larger work that is copied and used, and 2) the significance of the copied portion.
4. The effect of the use on the **potential market** of the copyrighted work. This factor is regarded as the most critical one in determining Fair Use; and it serves as the basic principle from which the other three factors are derived and to which they are related. If the reproduction of a copyrighted work reduces the potential market and sales, and therefore, the potential profits of the copyright owner, that use is unlikely to be found a fair use.

Fair use is an ambiguous concept and the law does not state exactly what uses of a copyrighted work will be considered fair uses under the law and may, therefore, be used without obtaining permission. Individuals who are not lawyers may often need to be interpreters of the law in everyday circumstances, and answers as to how much reproduction may be considered fair use often remain unclear.

Frequently scholarly and association publishers will exempt educational uses of their materials from a strict observance of the copyright law. Such exemptions must be stated within the published materials. In such cases, it is permissible to copy the materials without permission or compensation, up to and including the limits set by the publishers, even if they exceed fair use requirements. The publisher may not claim rights in published materials that exceed those established under law.

Publishers generally have established copyright clearance offices and practices that allow for educational uses in excess of legal limitations. Frequently, all that is required is a written request for permission to use materials for classroom purposes.

Guidelines

These guidelines are based on the 1998 Conference on Fair Use (CONFU) report to Congress. The guidelines were meant to be minimum guidelines for what constitutes educational fair use. They have not been passed into law and represent the conditions under which educators can use copyrighted materials without getting consent of the author or creator of the work. They are guidelines to assist the Pierpont community in making decisions about whether or not an intended use of copyrighted materials is fair or is an infringement.

1) A teacher may make (or request to be made) a **single copy** of any of the following for his or her scholarly research, for use in teaching, or for preparation to teach a course.

- 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.

2) A teacher may make (or request to be made) multiple copies for classroom use or discussions (not to exceed more than one copy per pupil) provided that:

- The copying meets the tests of **brevity, spontaneity, and cumulative effect**; and
- Each copy includes a notice of copyright.

Test of Brevity

- **Poetry**
 - A complete poem if less than 250 words and if printed on not more than two pages, or
 - An excerpt from a longer poem of not more than 250 words
- **Prose**
 - A complete article, story, or essay or less than 250 words, or
 - An excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less
- **Illustration**
 - One chart, graph, diagram, drawing, cartoon, or picture per book or per journal issue
- **Special works**
 - Works in poetry, prose, or “poetic prose” which fall short of 2,500 words in their entirety and
 - Which often combine language with illustrations and are intended sometimes for children and at other times for a more general audience

Tests of Spontaneity

- The copying is at the request and inspiration of the individual teacher, and
- 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.

Tests of Cumulative Effect

- The copying of the material is only for one course in the school in which the copies are made.
- 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.
- There shall not be more than nine instances of such multiple copying for one course during one class term.

The following uses are prohibited:

A teacher may **not** copy to create, replace, or substitute for

- Anthologies,
- Compilations, or
- Collective works (e.g. course packs)

A teacher may **not** make a copy of or from works intended to be “consumable” in the course of study or of teaching. These include

- Workbooks,
- Exercises,
- Standardized tests,
- Test booklets,
- Answer sheets, and like consumable material.

Copying shall **not**

- Substitute for the purchase of books, publishers’ reprints, or periodicals;
- Be directed by higher authority;
- Be repeated systematically by the same instructor for the same course; for example, an instructor may not copy the same item for a class each time the class is taught, even if there are intervening semesters in which the class is not taught, or if the class is taught at different off-campus program centers or cohorts, and
- Shall not be charged to the student beyond the actual cost of the photocopying.

To use materials in teaching that fall outside of the scope of fair use, an instructor can create a course pack.

Types of Use

Classroom Handouts

Based on Pierpont Community & Technical College’s fair use analysis, classroom handouts fall into two categories: one that requires permission and one that does not. If the handout is a new work for which the instructor could not reasonably be expected to obtain permission in a timely manner and the decision to use the work was spontaneous, that work may be used without obtaining permission. However, if the document is planned in advance, repeated from semester to semester, or involves works that have existed long enough that one could reasonably be expected to obtain copyright permission in advance; the instructor must obtain copyright permission to use the work.

Course packs

An academic course pack is a collection of materials (usually photocopied) used in the classroom and distributed either in class handouts or in a book format. Course packs commonly are available through the campus bookstore. Most publishers grant “clearances” for course packs—that is, for a fee, publishers give permission for their books and/or articles to be copied and distributed in educational settings. These clearances usually last for one semester. After that, the instructor must seek clearance again. In addition to the paper course packs, some companies now will assist in provision of electronic course packs used in distance learning and electronic teaching programs.

After many court rulings on course packs, it has been clearly established that instructors need to obtain permission before reproducing copyrighted materials for any academic course pack. When ordering course packs, it is important to clarify who will obtain permission for the course pack--the bookstore, the faculty member, or a member of the administrative staff. Deferring responsibility for copyright permission will not provide the instructor any protection against a claim of copyright infringement.

SECTION 4: LIBRARIES AND COPYRIGHTED MATERIAL

4.1: This section of the copyright policy provides guidance to the Pierpont community regarding the lawful uses of those copyrighted works that are made available within or through the libraries. If the library owns a copy of a publication, the library may place that copy on reserve without obtaining copyright permission. If the library wishes to reproduce additional copies of a work and place them on reserve for students to review, in either paper or electronic format, the library must obtain copyright permission. Copyright protection applies to the reproduction, alteration, distribution, and performance of a variety of creative works, including printed materials, sound and video recordings, visual artwork, online databases, and software.

4.2 Copying for Scholarly Needs or Library Print Reserves

All materials placed on library reserves must comply with federal copyright law and with Pierpont copyright policy. Any readings that are not clearly within the scope of the fair use provisions of 17 U.S.C., Section 107, cannot be added to the reserve system without the permission of the copyright holder. Library Circulation personnel will pass the request for permission on to the Librarian who has responsibility for copyright clearance. The process may take several weeks, and publishers often refuse such requests.

4.3 Electronic Reserves

The Library of Fairmont State and Pierpont have electronic reserves available through the Docutek system. It is preferable to link to materials already legally available at another site rather than scanning or making a digital copy of copyrighted materials. The libraries have access to thousands of full-text journals through electronic databases to which access has been purchased by the institution. Databases such as *JSTOR* and *Academic Search Premier* provide legally permissible ways to use links in electronic reserves and WebCT/Vista.

The electronic reserves are structured to limit access only to students who are registered in the course for which the items have been placed on reserve and to instructors and staff responsible for the course or the electronic system.

The guidelines of the libraries adhere to the fair use test factors. Assuming that any request for documents to be placed on electronic reserves meets the fair use test, the request will also be subject to the following limitations:

- Only one article from a single journal, magazine, or newspaper issue, one very brief excerpt from a single book, one chart/graph/illustration from a source, or one poem from a

work may be placed on electronic reserve per semester. Any item(s) selected must constitute only a small percentage of the total amount of assigned reading for the course (less than 10%).

- The library will make only one scanned copy to be placed on reserve. Copies will be stored as PDF files. Access will be password-protected and restricted to students who are currently enrolled in the class for which the reserve reading is assigned. Files may be viewed or printed to a printer, one copy per person; saving the document to a thumb drive or other device is not permitted.
- Reserve files will be removed at the end of each semester unless they are the professor's own work, or have received permission for use by the copyright holder;
- All requests for electronic reserves need to be accompanied by a request form. A notice of copyright appears on the opening page for each course, and copyright guidelines for use must be accepted by the user before access to the documents is granted.

Items that may **not** be placed on electronic reserves include the following:

- Course packs,
- Consumables, such as workbooks,
- More than one article from the same issue of a journal,
- More than one chapter from the same book, unless several chapters represent less than 10% of the entire book,
- An entire book,
- Any material, not in the public domain, that has already been placed on reserve/electronic reserve and for which there is no permission from the copyright holder,
- Any material for which the instructor, the library, or a unit of the educational institution does not possess a lawfully obtained copy. Articles obtained by interlibrary loan or personal subscriptions may not be used.

4.4 Photocopying in the Library

It is permissible to photocopy copyright-protected works in the Fairmont State and Pierpont Library without obtaining permission from the copyright owner, under the following circumstances:

- **Library user requests for articles or short excerpts.** At the request of a library user or another library on behalf of a library user, the Fairmont State and Pierpont Library may make one reproduction of an article from a periodical or a small part of any other work. The reproduction must become the property of the library user, and the library must have no reason to believe that the reproduction will be used for purposes other than private study, scholarship, and research. In accord with Section 108 of the Copyright Act, the library must display the register's notice at all photocopier locations (see Copyright Warning Sign for Copiers).
- **Archival reproductions of unpublished works.** Up to three reproductions of any unpublished work may be made for preservation or security or for deposit for research use in another library or archive. This may be a photocopy or a digital reproduction. If it is a digital reproduction, the reproduction may not be made available to the public outside the library or archive premises. Prior to receiving any of the three reproductions permitted under this provision from another library or archive, the Fairmont State and Pierpont Library must make a reasonable effort to purchase a new replacement at a fair price. The reproducing library or archive must also own the work in its own collection.
- **Replacement of lost, damaged or obsolete copies.** The Library of Fairmont State and Pierpont may make up to three reproductions, including digital reproductions, of a published work that is

lost, stolen, damaged, deteriorating or stored in an obsolete format. Any digital reproduction must be kept within the confines of the library (that is, available on its computer by not placed in a public network.)

- **Library user requests for entire works.** One reproduction of an entire book or periodical may be made by the Fairmont State and Pierpont Library at a library user's request, or by another library on behalf of a library user upon certain conditions being met. These conditions include the library determining after reasonable investigation that an authorized reproduction cannot be obtained at a reasonable price. Once made, the reproduction must become the property of the library user. The library must have no reason that the reproduction will be used by the user for purposes other than private study, scholarship and research, and the library must display the register's notice at the place library users make their reproduction requests to the library.

4.5 Photocopying for Students

The Library of Fairmont State and Pierpont and the Copy Center may make reproductions for library users (students, faculty, etc.), provided that the following criteria are met:

- The library/Copy Center makes one reproduction of an article from a periodical or a small part of any other work.
- The reproduction becomes the property of the student.
- The library/Copy Center has no reason to believe that the reproduction will be used for purposes other than private study, scholarship and research.
- The library/Copy Center displays the register's notice at the place library users make their reproduction requests to the library.

4.6 Copying for Document Delivery and Interlibrary Loan

4.6.1 Document Delivery Services

It is important to maintain a distinction between Interlibrary Loan (ILL) and Document Delivery Service (DDS). Photocopying for Document Delivery Services requires copyright permission.

4.6.2 Interlibrary Loan Services

The CONTU (National Commission on New Technological Uses of Copyright Works) guidelines on photocopying under Interlibrary Loan Arrangements were developed to assist librarians and copyright proprietors in understanding the amount of photocopying under interlibrary loan arrangements that is permitted under the copyright law.

Subsection 108(g)(2) of Title 17 deals, among other things, with limits on interlibrary arrangements for photocopying. It prohibits systematic photocopying of copyrighted materials but permits interlibrary arrangements "that do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work."

The Fairmont State Libraries will request no more than five copies of articles from the most recent five years of a journal title to which the library does not subscribe. Requests in excess of the five-in-five rule require payment of a royalty fee. The Libraries will contact the Copyright

Clearance Center (<http://www.copyright.com>) to determine royalty fees and to handle permissions, whenever necessary.

If a library user makes a request for or uses a photocopy or reproduction for purposes in excess of fair use, the user may be liable for copyright infringement. The Libraries of Fairmont State reserve the right to refuse to accept a copying request if, in its judgment, fulfilling that request would involve a violation of copyright law.

The Fairmont State Libraries will share photocopies of articles from journals in databases with other libraries via interlibrary loan only in accord with permissions granted within the licensing agreements of each database vendor.

Interlibrary loan personnel are legally obligated to display prominently the following notice and to include the same text on any request format:

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 specified 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. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of Copyright Law.

4.6.3 Photocopying by Students

Photocopying by students at Pierpont Community & Technical College is subject to a fair use analysis as well. A single photocopy of a portion of a copyright-protected work, such as a copy of an article from a scientific journal made for research, may be made without permission. Photocopying all the assignments from a book recommended for purchase by the instructor, making multiple copies of articles or book chapters for distribution to classmates, or copying material from consumable workbooks, all require permission.

SECTION 5 COPYRIGHT AND AUDIOVISUAL/MULTIMEDIA MATERIALS

5.1 Classroom Use of Films and Video

Possession of a film or video does not confer the right to show the work. The copyright owner specifies, at the time of the purchase or rental, the circumstances in which a film or video may be “performed.” For example, videos (cassettes and DVDs) from a video rental outlet usually bear a label that specifies “Home Use Only.” However, whatever their labeling or licensing, use of these

media is permitted in an educational institution as long as certain conditions are met.

Section 110(1) of the Copyright Act of 1976 permits

Performance or display of a work by instructors or pupils in the course of face-to face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance or the display of individual images is given by means of a copy that was not lawfully made...and that the person responsible for the performance knew or had reason to believe was not lawfully made.

The Copyright Act and portions of the House Report (94-1476) combine to provide a more detailed list of conditions:

1. They must be shown as part of the instructional program.
2. They must be shown by students, instructors, or guest lecturers.
3. They must be shown either in a classroom or other school location devoted to instruction such as a studio, workshop, library, gymnasium, or auditorium if it is used for instruction.
4. They must be shown either in a face-to-face setting or where students and teacher(s) are in the same building or general area.
5. They must be shown only to students and educators.
6. They must be shown using a legitimate (that is, not illegally reproduced) copy with the copyright notice included.

Further, the relationship between the film or video and the course must be explicit. Films or videos, even in a face-to-face classroom setting, may not be used for entertainment or recreation, whatever the work's intellectual content.

5.2 Use of Films and Video Outside of the Classroom

The Libraries of Fairmont State often purchase a public performance license, when one is available, that covers a number of the instructional videos in the collection. All videos owned by the University may ordinarily be viewed by students, faculty, or staff at workstations located in the library, or, in the case of DVDs, on some computers available on campus. These videos may also be viewed at home (e.g., in a dorm room or apartment), as long as no more than a few friends are involved. Larger audiences, such as groups that might assemble in a residence hall living room, require explicit permission from the copyright owner for "public performance" rights.

5.3 Copying Videotapes/Off-Air Recording of Broadcasts, Including Satellite TV

Copying videotapes without the permission of the copyright owner is illegal. An exception is made for libraries to replace a work that is lost or damaged if another copy cannot be obtained at a fair price (Section 108 of the Copyright Act of 1976). Pierpont Community & Technical College schools and departments will not duplicate any film or videotape without written authorization indicating that the copyright holder possesses all applicable rights to the work, including literary rights upon which the work is based; music rights (composition and performance); rights to all

graphic and visual elements (including slides, still photographs, graphs) contained in the work; and performing artists' releases. When written authorization is obtained, the requestor should be sure that the number of copies of the work that can be made and the length of time those copies can be retained are specified. The copyright holder should indemnify the College against any infringement actions pertaining to the work.

Absent any formal agreement, "Guidelines for Off-the-Air Recording of Broadcast Programming for Educational Purposes," an official part of the Copyright Act's legislative history, applies to most off-air recording:

1. Videotape recordings may be kept for no more than **45 calendar days** after the recording date, after which time the tapes must be erased.
2. Videotaped recordings may be shown to students only within the **first 10 school days** of the 45-day retention period.
3. Off-air recordings must be made only **at the request** of an individual instructor for **instructional** purposes, not by staff members who make the recordings in anticipation of future requests.
4. The recordings are to be shown to students no more than two times during the 10-day period, and the second time only for necessary instructional reinforcement.
5. The taped recordings may be viewed after the 10-day period only by instructors for evaluation purposes, in order to determine whether to include the broadcast program in the curriculum in the future.
6. If several instructors request videotaping of the same program, duplicate copies are permitted to meet the need; all copies are subject to the same restrictions as the original recording.
7. The off-air recordings may not be physically or electronically altered or combined with others to form anthologies, although they do not need to be shown in their entirety.
8. All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.
9. These guidelines are to be applied only at nonprofit educational institutions, which are further expected to establish appropriate control procedures in order to maintain the integrity of the guidelines.

Some public broadcasting services, such as the Public Broadcasting Service and the Agency for Instructional Television impose similar restrictions but limit use only to the seven-day period following the local broadcast.

In 1981, an Ad Hoc Committee on Copyright Law negotiated guidelines for off-air recording of broadcast programming for educational purposes. These guidelines represent the committee's "consensus as to the application of fair use to the recording, retention, and use of television broadcast programs for educational purposes." They specify periods of retention and use of such off-air recordings in classrooms and similar places devoted to instruction and for homebound

instruction. The purpose of establishing these guidelines is to provide standards for both owners and users of copyrighted television programs.

These guidelines are not embedded in the Copyright Act and it is unclear how courts may choose to apply them. Without explicit legislative or judicial acts, **strict adherence** to the guidelines may serve as some protection should an issue of infringement arise.

5.4 Sound Recordings

5.4.1 Non-Music Recordings

Cassettes or disks may not be copied unless replacement recordings from a commercial source cannot be obtained at a fair price. Recording brief excerpts is considered fair use.

5.4.2 Music Recordings

A single copy may be made for the purpose of conducting aural exercises or examinations. Otherwise, the restrictions on copying non-music recordings apply.

5.5 Slides and Photographs

5.5.1 *Reproduction of Slides and Photographs*

Whenever possible, Pierpont Community & Technical College should either purchase slides and photographs from authorized sources or should borrow from institutions that offer licensing for single-copy reproduction. Regardless of the source, further copying is prohibited.

5.5.2 *Display of Slides and Photographs*

Copyright extends control over display as well as reproduction of slides and photographs. However, Section 110 of the Copyright Act of 1975 addresses the display of copyrighted slides and photographs in educational settings by permitting “display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction” as long as the copy of the artwork was lawfully made. The purpose of the display must be integral to the course.

5.6 Digital Images

As photographic and electronic technology has advanced, producing high-quality reproductions of visual images has become easier, cheaper, and more accessible. Confusion over intellectual property rights of visual images arise over the many ways they are created and the many sources that may be related to a particular image. Determining the holders of the rights connected with such images requires an understanding of the source of the image, the content portrayed, and the creation of the image, both for original visual images and for reproductions. Images are often transferred from a book to a slide to a color transparency, etc, and there may be copyright holders

at each reproduction format.

Pierpont Community & Technical College may digitize new, lawfully acquired analog visual images to support permitted educational uses unless the images are readily available in useable digital form for purchase or license at a fair price.

Thumbnail images of lawfully acquired images may be included in a visual catalog for use at Pierpont. These thumbnail images may be combined with descriptive text in a visual catalog, searchable by a variety of fields.

5.6.1 Access, Display, and Distribution on Pierpont's Secure Network

Pierpont may display and provide access to images digitized under fair use guidelines on a secure network. Technological controls and institutional policies should protect the rights of copyright holders, and users need to be made aware of these rights. A notice must be provided that the digital images available on a secure network are not to be downloaded, copied, retained, printed, shared, modified, or otherwise used, except within the permitted educational fair use guidelines.

Pierpont may display an educator's compilation of digital images on the secure network for classroom use, after-class review, or directed study, provided that access is restricted only to students enrolled in the course during the semester that the academic course is given.

Access, display, or distribution of such visual images beyond the institution's secure network is not permitted.

Time limitations apply to the use of images digitized by Pierpont. Images digitized from a known source and not readily available in a useable format for purchase or license at a fair price may be used for one academic term and may be retained in digital format while the institution seeks permission from the copyright holder. Permission is required for any uses beyond the initial use. Where the copyright holder is unknown, the digitized image may be used for up to three years from first use, provided that a reasonable inquiry is conducted by Pierpont as permission is sought to digitize, retain, and reuse the image. If, after three years, sufficient information to seek permission is unavailable, any further use is subject to the four-factor fair use analysis.

5.6.2 Display of Digital Images by Educators, Scholars, and Students

An educator may:

- Display digital images for educational purposes, including face-to-face teaching of curriculum-based courses, and research and scholarly activities at a nonprofit educational institution.
- Compile digital images for display on the institution's secure network to students enrolled in a course given by the instructor for classroom use, after-class review, or directed study, during the term in which the educator's related course is given.
- Use or display digital images in connection with presentations/lectures in their fields,

including uses at non-commercial professional development seminars, conferences, and workshops, where educators meet to discuss information relevant to their disciplines.

Students may:

- Use digital images in an academic course assignment such as a term paper, thesis, or in fulfillment of degree requirements.
- Publicly display their academic work in courses for which they are registered and during formal critiques.
- Retain their academic work in their own personal portfolios for later uses such as graduate school and employment applications.

SECTION 6 EDUCATIONAL MULTIMEDIA FAIR USE

Multimedia may be defined as a computerized format that combines a variety of media types, including, but not limited to, film, graphics, sound, television, and text. There is not yet any case law providing definitive parameters, and there are privacy rights and complex contracts that protect individuals.

For use in class as part of a syllabus, an individual will be relying on precedents in copyright for other formats (see the sections on Audiovisual Materials). Multimedia should be presented only in the classroom setting to class members and the instructor. If anyone is planning to use the multimedia package in other settings, that individual should be aware of the need to get permission for all clips of any kind being used. There must be a respect for the privacy rights of the individuals portrayed and permissions must be obtained.

6.1 *Spontaneous Use*

Educators, scholars, and students may digitize lawfully acquired images to support permitted educational uses if the inspiration and decision to use the work and the moment of its use are so close in time that it would be unreasonable to expect a timely reply for permission from the copyright holder. Such images are not to be retained or reused without permission.

6.2 What Portion of Media May Be Used?

6.2.1 *Motion Media*

Up to 10% or three (3) minutes of a source, whichever is less.

6.2.2 *Text*

Up to 10% or 1000 words of a source, whichever is less. An entire poem of less than 250 words, but no more than three (3) poems or excerpts by one poet. No more than five poems or excerpts from one anthology.

6.2.3 *Music, Lyrics, Music Video*

Up to 10% but not more than thirty (30) seconds from an individual work.

6.2.4 *Illustrations, Photographs*

No more than five (5) images by one artist or photographer. No more than 10% or 15 images, whichever is less, from any single published work.

6.2.5 Numerical Data Sets

Up to 10% or 2500 fields or cell entries, whichever is less.

6.2.6 Internet Sources

It is often difficult to determine what is copyright protected and what is in the public domain, but the multimedia creator is responsible for adhering to copyright law.

6.2.7 Opening Screen Notice

Credit for the sources and display the copyright notice and copyright ownership information if shown in the original source must be provided. In providing credit, the user 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 notice includes the word "Copyright" or the copyright symbol ©, the name of the copyright holder, and the year of first publication.

6.2.8 Integrity of Sources

Any alterations made on copyrighted items must be noted.

SECTION 7 COMPUTER SOFTWARE

7.1 When mass-market software is purchased by Pierpont, the institution normally acquires a license or licenses to use the software only on the storage device purchased, or on the file downloaded. Under such a license, the institution will have the right only to load it on a single computer, or on as many computers as licenses owned by the institution. Under such licenses, the institution typically will have the right to make one copy for archival purposes only or, in limited circumstances for purposes of maintenance or repair.

This means that the institution may neither make nor distribute copies of the software for any other reason without first obtaining permission from the copyright holder or its agent. Permission would include a license that allows the user to make copies of the software beyond a single use (for instance, for use on several computers in a lab or library). The license may also allow an individual to make a copy of the software on a home computer or laptop, but the software license must be checked to determine whether this is permitted.

7.2 Peer-to-Peer (P2P) File Sharing

The issue of P2P file sharing is receiving increasing attention in the U. S and around the world. P2P file sharing is not itself illegal. However, it is often used for unauthorized downloading and uploading of copyright-protected material such as music, movies, video games, computer software, and photographs. Several courts have determined that substantial P2P file sharing of copyright protected works generally does not fall within the fair use defense. Pierpont does not allow P2P file sharing in residence halls on campus.

Students who engage in substantial P2P file sharing of copyright-protected materials may be subject to serious liability. Pierpont is under no obligation to accept responsibility for, or to help defend, the activities of students in illegal file sharing.

7.3 Illegal Online Content

Pierpont is in compliance with the Digital Millennium Copyright Act and complies with the conditions as follows:

- Pierpont has a Copyright Office that should receive notification of copyright infringement claims and the officer has been registered with the U.S. Copyright Office.
- Pierpont has copyright compliance policies and has implemented procedures for handling complaints of copyright infringement that occur on the institution's networks or servers. The policies include a procedure for terminating the accounts of repeat alleged copyright infringers and do not interfere with measures by copyright owners to identify and protect their works. These policies will be posted on Pierpont's website.
- Pierpont has developed and implemented an educational program to ensure that faculty, staff, and students and others at the institution understand copyright law. The institution has a team of individuals with expertise in copyright law, and the campus community has access to legal resources including LexisNexis.

7.4 The TEACH Act

The Technology, Education, and Copyright Harmonization Act of 2002 (TEACH Act) amends the Copyright Act. The TEACH Act

- recognizes that the physical classroom may also include the electronic classroom and would permit students to access digital materials in a course.
- recognizes that storage of copyrighted materials on a server is permitted, provided that it is asynchronous use of copyright performances and displays.
- recognizes that digitized versions of works can be made provided they are not available in a digital format. If they are available in digital format, the TEACH Act does not apply and permission of the author is needed, or it must meet fair use.
- allows the display of any work in "an amount comparable to that typically displayed in the course of a live classroom setting."
- only provides in-class "performances" or displays.
- requires that the performance or display must be technologically limited to only enrolled students in the class.
- permits the transmission of an entire non-dramatic literary or musical work.

7.5 DISTANCE EDUCATION AND COURSE

MANAGEMENT SYSTEMS

In 2002, the Technology, Education and Copyright Harmonization (TEACH) Act became law and expanded the latitude institutions, including Pierpont, have for the performance and display of copyright-protected materials in a distance education environment, including through the use of Course Management Systems (CMS).

The copyright requirements for TEACH and CMS postings are similar to those of classroom handouts, but extend the traditional rules for those handouts to the digital transmission of materials

to distance education students. If the use is spontaneous and will not be repeated, copyright permission is not required; however, the content may not remain posted for extended periods of time. If the use is planned, repeated, or involves works that have existed long enough that one could reasonably expect to receive a response to a request for copyright permission, copyright permission must be obtained.

SECTION 8 COPYRIGHT NOTICE

Copying, displaying and distributing copyrighted works may infringe the owner's copyright. Pierpont's Copyright Policy provides information about whether use of a copyrighted work is a fair use or requires permission. Any use of computer or duplicating facilities by students, faculty or staff for infringing on the use of copyrighted works is subject to appropriate disciplinary action as well as those civil remedies and criminal penalties provided by federal law.

8.1 Warning Concerning Copyright Restrictions

The copyright law of the United State (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 specified 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.

Pierpont Community & Technical College reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

8.2 Copyright Warning Sign for Photocopiers

The following signage should be affixed to all copying machines at Pierpont facilities:

NOTICE: THE COPYRIGHT LAW OF THE UNITED STATES (TITLE 17 U.S. CODE) GOVERNS THE MAKING OF PHOTOCOPIES OR OTHER REPRODUCTIONS OF COPYRIGHTED MATERIAL. THE PERSON USING THIS EQUIPMENT IS LIABLE FOR AND INFRINGEMENT.

SECTION 9 CONTENT USE FOR BUSINESS PURPOSES

While copyright compliance focuses on the use of content for educational purposes, in the course of daily operations there are many instances where educational guidelines do not apply. Examples of such use include a staff member who copies a trade magazine article to share with colleagues, a marketing person who copies press articles for use in public relations or recruiting, or a faculty member who uses third-party materials in a non-academic presentation or speaking opportunity. In these instances, the fair use analysis will usually produce a different result from an educational (classroom-related) use and each user would need to obtain copyright permission from the copyright holder or its agent.

SECTION 10 COPYRIGHT AND FOREIGNWORKS

The United States is a member of the leading international copyright treaty, the Berne Convention. As such, when Pierpont uses a copyright-protected work from another country, the protections provided to works by U.S. copyright law automatically apply to the use of that work as well (assuming that the use takes place in the U.S.). The Copyright Clearance Center has many reciprocal licenses to allow use of materials from other countries.

SECTION 11 FACT FINDING QUESTIONS

Once an individual has identified those materials needed, and has determined that copyright permission is required, the copyright holder must be identified. If the copyright holder is not listed on the work, locating the appropriate person or entity to grant permission may take some investigative and creative work.

The Copyright Office of the Library of Congress (<http://www.loc.gov>) may be of assistance in locating a copyright owner if the work is registered. It should be noted that copyright is automatically granted to all works upon their being written down and that registration with the Copyright Office is not required.

The following process for obtaining copyright permission at Fairmont State University may be used.

- **Obtaining Copyright Permission Directly from the Copyright Holder**

The instructor should plan ahead when requesting copyright permission directly from the copyright holder. It may take several weeks or longer to identify and locate the copyright holder. For most print and online publications, the publisher is usually a copyright holder capable of providing permission. If the copyright holder cannot be identified, a request for a search may be made to the U.S. Copyright Office. However, copyright registration is not required for copyright protection. Publisher and author trade associations, as well as online search engines, are helpful resources for locating copyright holders. At a minimum, the permission request should include the following:

1. The requester's name, address, telephone number, and email address
2. The requester's title, position, and institution's name
3. The date of the request
4. The title of the work to be copied with a description and a citation of that work
5. A description of how the work is to be used, by whom, and for how long
6. A signature line for the copyright holder to sign, signifying that permission has been granted.

A lack of response from the copyright holder, under U.S. law, does not convey permission. Some works may contain materials—text, images, and graphics—from multiple copyright holders and may require separate authorization from each one. Simply acknowledging the source of the content is not a substitute for copyright permission.

- **Obtaining Copyright Permission Through Copyright Clearance Center**

The Copyright Clearance Center provides a streamlined and efficient way to obtain permission to use copyrighted information in both print and digital formats. Usage rights to the most sought-after journals, books, publishers, and other copyright holders worldwide are available at <http://copyright.com>. In many cases, instant authorization may be provided for the use of copyright-protected content. The Center will also make every effort to secure the rights to use copyrighted material.

SECTION 12 FREQUENTLY ASKED QUESTIONS

A list of frequently asked questions will be compiled, over time, to help readers understand how the policy affects them and their responsibilities under it.

SECTION 13 RESOURCES USED IN DEVELOPING THE FAIRMONT STATE UNIVERSITY COPYRIGHT POLICY

Copyright Clearance Center. *The Campus Guide to Copyright Clearance*.
<http://www.copyright.com>

Albion College Copyright Policy. <http://www.albion.edu/library/copyright2/main.htm>

CONTU (National Commission on New Technological uses of Copyrighted Works); CONTU Guidelines on Photocopying –Interlibrary Loan Arrangements.
<http://www.eni.org/docs/infopols/CONTU.html>

American Library Association. <http://www.ala.org>

University of Texas System. <http://www.utsystem.edu/OGC/intellectualProperty/>

Winthrop University. <http://www.winthrop.edu>

Columbia University. <http://www.columbia.edu>

Eastern New Mexico University.
<http://www.enmu.edu/academics/library/information/copyright.shtml>

Wellesley College. <http://www.wellesley.edu/Library/copyright.html>

Stanford University. <http://www.stanford.edu/DoR/rph/5-2.html>

Southeastern Louisiana University. <http://www2.selu.edu/copyright/slucopyright.htm>

Digital Millennium Copyright Act of 1998.

Carnegie Mellon University. <http://www.cmu.edu/policies/documents/copyright.html>