

Policy Title: Copyright and Fair Use

Impact: Employees, Students, and all NIC Community Members

Responsibility: Accreditation Executive Committee

Effective Date: 02/26/2020

Last Update:

Relates to Procedure: 2.03.04

Legal Citation(s): United States Copyright Law, Title 17, U.S. Code, 1976; The Fair Use Guidelines of 1997; the TEACH Act of 2002; the Digital Millennium Copyright Act

I. Policy Statement

The North Idaho College Copyright Policy and Procedure establishes guidelines regarding the “Fair Use” of copyrighted material, use of multimedia and copyrighted works in the classroom, and information regarding the Digital Millennium Copyright Act.

II. Overview & Purpose

North Idaho College bases its copyright policy and procedure upon United States Copyright Law, Title 17, U.S. Code, 1976, the Fair Use Guidelines of 1997, the TEACH Act of 2002, the Digital Millennium Copyright Act (DMCA), and the DMCA exemptions of 2006. The copyright law of the United States governs the making of photocopies or other reproductions of copyrighted material. This policy and procedure is intended to provide guidance and information for college faculty, staff and students to better understand what the law allows, and why some services that are technically possible may nevertheless face restriction. It is the responsibility of departments to consult and follow the copyright laws and to develop their own supplemental rules and procedures for copyright compliance as appropriate to address issues or materials unique to the department. Molstead Library maintains resources to understand copyright laws. North Idaho College remains open to receiving any new information on or interpretation of copyright law.

III. Scope

This policy and procedure apply to all members and agents of the North Idaho College community, including the Board of Trustees, administrators, faculty, staff, students and alumni and any other person who has access to information technology resources at North Idaho College.

IV. General Information About Copyright

Copyright grants to the author or originator the sole and exclusive privilege of creating multiple copies of literary or artistic productions and publishing and selling them. Copyright protection exists for original works fixed in any tangible medium of expression, including:

- literary works;
- musical works, including any accompanying words;
- dramatic works, including any accompanying music;
- pantomimes and choreographic work;
- pictorial, graphic, and sculpture work;
- motion pictures and other audiovisual works;
- sound recordings.

Note: Works in the U.S. public domain can be freely used without obtaining permission.

V. Copyright Protections and Exemptions

The copyright holder has important and exclusive rights. These rights include the right to copy, distribute, adapt, perform, display, and create derivative or collected works. In general, any use of copyrighted materials requires permission from, and potentially payment of royalties to, the copyright holder unless the use falls within an exemption in the law. These include the fair use exemption and the classroom exemption.

The North Idaho College community members must make demonstrable good faith efforts to understand the fundamentals of copyright law and the reasonable application of fair use. When North Idaho College community members plan to use a copyrighted work in their teaching or research, they must examine the specifics of their use within the context of the law in order to determine whether they should seek permission for the use or depend instead upon the fair use or classroom exemption.

A. Classroom Exemption

This exemption applies to face-to-face teaching in a classroom. Faculty and students may perform or display, but not reproduce or distribute, any copyrighted work in the course of face-to-face teaching activities in a classroom, without seeking permission.

B. Fair Use Exemption

Other educational uses may be exempt from permission if they fall within the fair use exemption. An appropriate exercise of the fair use exemption depends on a case-by-case application and balancing of four factors as set forth in a statute enacted by Congress:

- i. The purpose and character of the use, including whether the copied material will be for nonprofit, educational, or commercial use;
- ii. The nature of the copyrighted work, with special consideration given to the distinction between a creative work and an informational work;
- iii. The amount, substantiality, or portion used in relation to the copyrighted work as a whole; and
- iv. The effect of the use on the potential market of the copyrighted work.

See Procedure 2.03.04 for discussion of the fair use exemption applied to typical academic uses.

VI. Responsibilities

Compliance with the federal copyright law and with this policy is the responsibility of every member and agent of the North Idaho College community, including the Board of Trustees, administrators, faculty, staff, students and alumni, and any other person who has access to information technology resources at North Idaho College. North Idaho College expects all members of its community to take a personal interest in becoming informed about how copyright law affects our work at North Idaho College.

The North Idaho College President's Cabinet has responsibility for enforcing this policy and procedure. The Director of the Library supports the interpretation of this policy and procedure by maintaining library materials for employees and students. Anyone having questions about compliance with copyright requirements after reviewing the materials available in the library, may address them to the President's Office to request review for a legal opinion. The President may designate someone to review such requests. The granting of a request for legal opinion is discretionary.

VII. Definitions

- A. Copyright (as defined by the U.S. Copyright Law). A form of protection provided by the laws of the United States for "original works of authorship," including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural, and audiovisual creations.

- B. Fair Use (as defined by U.S. Copyright Law). Fair use of a copyrighted work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research that does not infringe copyright.
- C. Derivative Work. A derivative work is a work based on or derived from one or more already existing works. Common derivative works include translations, musical arrangements, motion picture versions of literary material or plays, art reproductions, abridgments, condensations of preexisting works, and “new editions” of preexisting work.
- D. Collective Works. Collective works, also known as compilations of data or compilations of preexisting works, are materials selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes a new work.
- E. Royalties. A percentage of gross or net profit or a fixed amount per sale to which a creator of a work is entitled, which is agreed upon in a contract between the creator and the manufacturer, publisher, agent and/or distributor.
- F. Creative Work. A tangible form of original creative expression including fine artwork, choreographic works, literary works, filmmaking, dramatic works, sound works, architectural works, and musical works.
- G. Informational Work. A tangible form of work that includes ideas, procedures, methods, systems, processes, concepts, principles, or discoveries; titles, names, short phrases, and slogans; familiar symbols or designs; variations of typographic ornamentation, lettering, or coloring; or listings of ingredients or contents.
- H. Agent. A person who is authorized to act for an organization through employment, by contract or apparent authority.