

COPYRIGHT POLICY

BCC POLICY NUMBER 7.02

SOURCE REFERENCE: 17 U.S.C. 101, 102, 106, 108, 110, 117

REVISION RESPONSIBILITY: VICE PRESIDENT FOR FINANCE AND ADMINISTRATION

COMMENTS: View www.copyright.gov for further information.

1. Overview

It is the policy of Bladen Community College to support the lawful limitations of the unauthorized duplication and use of copyrighted materials. The college does not condone any infringement on the property rights of copyright owners. Compliance with federal copyright law is expected of all students, faculty, and staff at the college.

"Copyright" is legal protection for creative intellectual works, which is broadly interpreted to cover any expression of an idea. Text (including email and web information), graphics, art, photographs, music and software are examples of types of work protected by copyright. The creator of the work is the initial copyright owner. Copyright also means that the owner has an exclusive intellectual property right to do and authorize others to exercise any of its rights as defined in law. A copyright arises automatically as soon as the work is fixed and does not necessarily require publication or registration.

The Copyright Act directs that the college develop and distribute to employees guidelines that clearly discourage violation of Copyright Law, and inform employees of their rights and responsibilities under this law. This policy represents a sincere and diligent effort by the college to comply with applicable laws regarding copyright.

2. Application

Employees, students and college visitors are prohibited from the use or duplication of any copyright materials not allowed by copyright law, fair use guidelines sanctioned by Congress, licenses or contractual agreements. Willful violations also are considered to be in violation of expected standards of behavior for employees and students and can result in disciplinary action.

U.S. copyright law treats the unauthorized uploading, downloading, or sharing of copyrighted material as an offense that carries legal consequences. Any college computer account holder who infringes upon copyright laws risks possible sanctions by the copyright holder, loss of access to the college networks, and disciplinary actions by the college.

The college prohibits any infringement of intellectual property rights by any member of the college community. It is against college policy to participate in the violation of the intellectual property rights of others. Please refer to college policies regarding use of the college computing resources: *Technology Use Policy 5.10*.

3. Fair and Lawful Use

Copyright infringement occurs when a copy is made of any copyrighted work, such as songs, videos, software, cartoons, photographs, stories, or novels, without permission from the copyright owner and without falling within the specific exceptions provided for under the copyright laws. These exceptions include, without limitation, "fair use," which is briefly described below. Unless allowed as "fair use" under federal law, permission must be acquired from the copyright owner prior to copying copyrighted material. Fair use also includes provisions of the Audio Home Recording Act, which allow for noncommercial copying of lawfully acquired music onto recordable storage devices.

Fair use is based on the following standards:

1. The purpose and character of the use, including whether such use is of a commercial;
2. The nature or is for nonprofit educational purposes;
3. The nature of the copyrighted work;
4. The amount of and the substantiality of the portion used in relation to the copyrighted work as a whole; and,
5. The effect of the use upon the potential market for, or value of, the copyrighted work.

Guidelines for the Reproduction of Copyrighted Materials

Copyrighted print materials may not be photocopied without the prior permission of the copyright owner unless the circumstances satisfy the requirements for fair use. The guidelines set forth below are to be used to determine whether or not the prior permission of the copyright owner shall be sought. If the proposed photocopying is not permitted under the guidelines, the permission of the copyright owner shall be sought. After permission has been sought, copying may be undertaken only if permission has been granted and in accordance with the terms of the permission.

1. Single Copying for Instructors: A single copy may be made of any of the following by or for an instructor at their individual request for their scholarly research, or for use in teaching or preparation to teach a class:
 - a. A chapter from a book
 - b. An article from a periodical or newspaper
 - c. A short story, short essay, or short poem, whether or not from a collective work
 - d. A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper

2. Multiple Copies for Classroom Use:
Multiple copies, not to exceed in any event more than one copy per student in a course, may be made for classroom use or discussion by or for the teacher of the course provided that:
 - a. The copying meets the tests of brevity and spontaneity as defined below; and,
 - b. Meets the cumulative effect test as defined below; and,
 - c. Includes a notice of copyright on each copy.

4. Unlawful Reproduction or Copying

No individual may use a copier, or request the print shop to copy excerpts of a work, in a manner exceeding the fair use limitations under federal law either as to the extent of the copying or as to the later use of the copy.

Repeated copying: The single copies authorized under federal law are limited to "isolated and unrelated" production and exclude copying where the library or any college employee "is aware or has substantial reason to believe" that copying on one occasion or series of occasions is causing multiple copies of the same material. Federal law does not authorize "systematic" copying except interlibrary arrangements not having the "purpose or effect" of providing the receiving library "such aggregate quantities as to substitute for a subscription to or purchase of such work."

Copying shall not substitute for the purchase of books, publisher's reprints, or periodicals; be directed by higher authority; be repeated with respect to the same item by the same faculty member from term-to-term; or, no charge shall be made to the student beyond the actual cost of photocopying.

- 1) The copying of the material is for only one course in the school in which the copies are made.
- 2) Not more than one short poem, article, story, essay, or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
- 3) There shall not be more than nine instances of such multiple copying for one course during one class term.

5. Peer-to-Peer File Sharing and Copyright Infringement

Peer to peer computing has many uses. Peer to peer networks can be used to share and exchange files, music, movies, software, and other electronic materials. The use of networks to upload, download or share copyrighted material, such as movies, music, and software, may violate the rights of copyright holders.

In the peer to peer file-sharing context, infringement may occur, for example, when one person purchases an authorized copy and then uploads it to a peer to peer network. When one person purchases a media file, creates a digital copy, and then uses a peer to peer network to share that digital copy with others, both the individual who makes the file available and those making copies may be found to have infringed the rights of the copyright owner(s) and may be violating federal copyright law.

BCC advises all computer account holders to use extreme caution when installing peer-to-peer software and to read all user agreements carefully beforehand. Users need to read all available documentation from the peer-to-peer software provider and understand how the peer-to-peer software is configured and operates. Informed users are able to avoid unwitting copyright violations.

6. Copyright Infringement Notifications and Sanctions

As an Internet Service Provider (ISP) for students, faculty, and staff, the college receives notices from the RIAA (Recording Industry Association of America) or MPAA (Motion Picture Association of America) identifying the IP (Internet Protocol) addresses of the college account holders believed to be sharing copies of copyrighted music and videos without authorization. The college reserves the right to require that the infringing conduct cease immediately; where necessary, the college will revoke the identified individual's access to the college computer system.

Infringing conduct exposes the infringer to the risk of legal penalties, both civil and criminal. Civil penalties may include actual damages and profits, or statutory damages. Moreover, the courts can also award reasonable attorney's fees and costs and increase the damages in the case of a willful infringement. Criminal penalties can include fines and imprisonment.

7. Types of Copyright Infringement Notifications

Copyright holders and organizations that represent copyright holders, such as the RIAA and MPAA, typically send out three different types of communications related to copyright infringement:

1. Cease and desist, or copyright infringement, notices – The purpose of these notices is to stop the illegal possession and distribution of copyrighted material. When the Information Technology department receives these notices from copyright holders or their representatives, IT contacts the user whose Internet Protocol (IP) address has been identified in the notice. IT notifies the user that illegal copies of copyrighted materials must be destroyed.
2. Pre-litigation notices – These letters are used by copyright holders and their representatives prior to filing a lawsuit to recover, by way of a settlement, financial damages caused by the illegal distribution of copyrighted material. If you have been identified as participating in the illegal downloading or uploading of copyrighted materials, you may receive one of these notices, even if you have already destroyed your copy (or copies) of the material(s) in question.
3. Subpoenas – These notices indicate that the copyright holder has filed a lawsuit to recover damages for the illegal distribution of copyrighted material. If the court finds the user liable, he or she will be subject to fines and penalties.

The college prohibits the use of its computing resources to conduct illegal activity. The community college complies with applicable federal, state, and local laws and requires that users do the same.

The college enforces its own policies and standards pertaining to the electronic communication environment (*Technology Use Policy 5.10*); regardless of whether a copyright holder pursues legal action.

8. Examples of Most Frequent Copyright Violations:

- Use of copyrighted print material without acknowledgement of source or permission of author
- Copying for retail distribution any copyrighted material without permission/license
- Downloading any copyrighted material without license, purchase or permission
- Sharing of legally downloaded electronic media with person who does not have legal right of possession
- Claiming authorship of creatorship of intellectual property not one's own
- Distributing unauthorized copies of copyrighted materials beyond a classroom setting (website, for example) in a forum that is publically accessible
- Quoting without citation any intellectual property not one's own for use in a publishable document

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