

## Online Copyright Center

<http://www.ptc.edu/copyright-center>

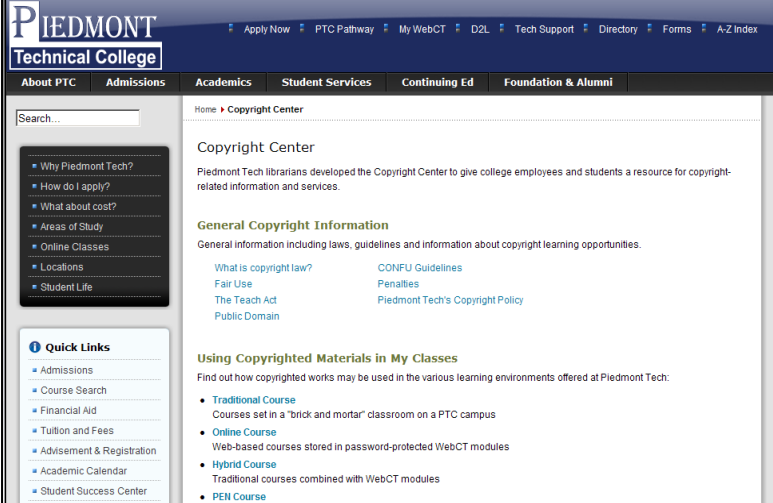
- Developed by the PTC library staff for faculty, staff and students
- Includes copyright information and links to other sites about copyright
- Includes Copyright Clearance Form to help users document attempts to comply with laws and guidelines

### PTC Copyright Officer

If you need to discuss or research a copyright issue, please contact:

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Dean of Learning Resources  
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**Disclaimer:** Please note that the information presented in this handout and on the Online Copyright Center is for information purposes only. It should not be used as a substitute for actual legal advice.



### PTC Directive 5-12 (Copyright Compliance) – Last Updated May 8, 2006

[http://www.ptc.edu/directives/doc\\_download/103-5-12](http://www.ptc.edu/directives/doc_download/103-5-12)

### Categories Protected by Copyright

Copyright does not protect ideas, titles, names, short phrases, works in the public domain, forms that collect information, or links to Web sites. It does, however, protect "forms of expressions" delivered in the following formats:

- Literary works
- Musical works (along with accompanying lyrics)
- Dramatic works (along with accompanying music)
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works
- Motion pictures and audiovisual works
- Sound recordings
- Architectural works
- Computer programs

### Author's Exclusive Rights

Copyright law gives an author/creator the exclusive rights to:

1. Reproduce the work in copies or phonorecords
2. Prepare derivative works based on the copyrighted work
3. Distribute copies or phonorecords of the work by sale to the public or other transfer of ownership, rental, lease, or lending
4. Perform literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work publicly.

### You May Use Copyrighted Materials when...

- the faculty member is also the copyright owner.
- written permission has been granted by the copyright owner.
- the work is in the public domain.
- use of the work is a "Fair Use" (one time use only!)
- use of the work is protected by The TEACH Act. (Distance Education Only!)

## Fair Use Information

Section 107 of the U.S. Copyright Law provides for fair use exemption. Fair Use is intended to balance the needs of scholars and students with the rights of copyright owners. The law states that copyrighted materials may be used **one time only** under special circumstances which constitute fair use. While Fair Use Guidelines described on this page do not carry total legal force, they are usually considered a "safe harbor" for permissible use.

## FAIR USE SCALE

What constitutes fair use is expressed in guidelines rather than rules. When ruling in "fair use" cases, courts consider four factors: purpose, nature, proportion and impact. The following table summarizes fair use guidelines for each factor:

4 out of 4 Your use of the copyrighted work is fair.	3 out of 4 You are probably protected under Fair Use.	2 out of 4 Use the copyrighted work at your own risk.	1 out of 4 You are strongly advised not to use the work.
Favoring Fair Use		Opposing Fair Use	
PURPOSE			
<ul style="list-style-type: none"> <li>• Non-Profit</li> <li>• Educational</li> <li>• Teaching</li> <li>• Research</li> <li>• Scholarship</li> <li>• Criticism</li> <li>• Comment</li> <li>• News Reporting</li> <li>• Transformative or productive use</li> <li>• Restricted access</li> <li>• Parody</li> </ul>		<ul style="list-style-type: none"> <li>• Commercial</li> <li>• Profiting from the use</li> <li>• Entertainment</li> <li>• Bad-faith behavior</li> <li>• Denying credit to original author</li> </ul>	
NATURE			
<ul style="list-style-type: none"> <li>• Published work</li> <li>• Fact-based or nonfiction work</li> <li>• Important to stated educational objectives</li> </ul>		<ul style="list-style-type: none"> <li>• Unpublished work</li> <li>• Highly creative or fictional work</li> <li>• Work created for Education Market (ex. textbooks, workbooks)</li> </ul>	
PROPORTION or AMOUNT			
<ul style="list-style-type: none"> <li>• Small portion of the work</li> <li>• Section used is not central or critical to entire work; it is not the "heart of the work"</li> <li>• Amount is suitable for stated educational objectives</li> <li>• Thumbnail image (no more than 100x125 or 125x100 pixels)</li> </ul>		<ul style="list-style-type: none"> <li>• Large or entire portion of the work</li> <li>• Section used is central to the work</li> </ul>	
IMPACT or EFFECT (most important of the Four Factors)			
<ul style="list-style-type: none"> <li>• User owns lawfully acquired copy of original work</li> <li>• One or few copies made</li> <li>• No significant effect on the market or potential market for copyrighted work</li> <li>• No similar product marketed by the copyright holder</li> <li>• Lack of licensing mechanism</li> <li>• Original is out of print or otherwise unavailable</li> <li>• Copyright owner cannot be identified</li> <li>• Use is spontaneous</li> </ul>		<ul style="list-style-type: none"> <li>• Competes with sales of the original work</li> <li>• Significantly impairs market or potential market for copyrighted work or derivative</li> <li>• Reasonably available licensing mechanism available</li> <li>• Affordable permission available for using work</li> <li>• Numerous copies made</li> <li>• User makes work accessible on Web or in other public forum</li> <li>• Repeated or long term use</li> <li>• What if everybody did it?</li> </ul>	

## The TEACH Act of 2002

The TEACH Act provides guidelines for using copyrighted material in **distance education** by amending the allowances and limitations of U.S. Copyright Law. It applies only to accredited, non-profit educational institutions and requires the cooperation of the college's administration, technical staff and faculty as described below:

ADMINISTRATION	<ul style="list-style-type: none"><li>• College is an accredited, non-profit educational institution.</li><li>• College has instituted policies regarding copyright.</li><li>• College provides materials to faculty, students, and staff that describe and promote U.S. Copyright Laws.</li><li>• College has provided notice to students that course materials may be subject to copyright protection.</li><li>• Transmission of course content is made solely for students officially enrolled in the course.</li></ul>
TECHNICAL STAFF	<ul style="list-style-type: none"><li>• The technology division has taken technological actions to restrict student access to copyrighted materials for longer than the defined class session.</li><li>• The technology division has taken technological actions to deter unauthorized dissemination of copyrighted materials by students to others.</li><li>• College does not interfere with technological measures taken by copyright owners to prevent retention or unauthorized sharing of their works.</li><li>• The technology division houses copyrighted works on a computer system or network in such a way that it is not ordinarily accessible to unauthorized users.</li><li>• The technology division will only maintain the copy of the copyrighted work for a period of time that is reasonably necessary to facilitate the transmissions for which it was made.</li><li>• Copies made for the sake of transmission are retained and used solely by Piedmont Technical College.</li></ul>
FACULTY	<ul style="list-style-type: none"><li>• The copyrighted work that is being performed or displayed is an integral part of my class and would be used in the same way in a traditional, non-online classroom.</li><li>• Do not use works sold commercially for distance education purposes (ex. course packs) or works that that students would normally be expected to use individually and on their own time for studying (ex. textbooks).</li><li>• Do not use pirated works or any other works which are known to be unlawfully made.</li><li>• Limit work to a length or amount which would reasonably be used in a real-time, traditional class session. Consider how much you would share in a traditional classroom setting and offer no more than that amount.</li><li>• A performance, display, or work must be part of the "mediated instructional activities" (MIA) specified in U.S.C. 17 Section 110(2). In other words, the instructor must make the copyrighted material an integral part of a lecture or other actual class assignment; the work cannot be supplemental or optional in nature.</li><li>• Electronic access to works must be limited only to those students actually enrolled in the course and should only be available during the course session. The college should provide technological tools which prevent students from copying works and should also limit student access to the works beyond the course session.</li><li>• Students must be given notice that some course materials are protected by copyright.</li><li>• Copies may be made of digital works or analog works may be digitized only if:<ul style="list-style-type: none"><li>○ They are used solely by the institution that made them, and no further copies are produced from them, except as authorized under Section 110(2).</li><li>○ The digital version of the work is available to the institution is subject to technological protection measures that prevent its use for Section 110(2).</li></ul></li></ul>

### SOURCES

***Complying with the TEACH Act and Copyright Issues in Distance Education***, a presentation by Dr. Fritz Dolak for the ITC Professional Development Audio Conference on November 18, 2003. <http://www.bsu.edu/classes/dolak/ITC>

## Public Domain Works

Works in the public domain are not protected by copyright and may be freely used by everyone. Once a work enters the public domain, it cannot be reclaimed by the original copyright owner. Reasons that these works are not protected include:

- The work does not meet the requirements for copyright.
- The copyright for the work has expired.
- The author/creator failed to satisfy statutory formality to perfect the copyright.
- The work was created by the U.S. Government.\*

WHEN COPYRIGHT EXPIRES Date of Work	When Copyright Begins	Term of Copyright
Created on or after January 1, 1978	When the work is fixed in a tangible medium of expression  Under the Berne Convention Implementation Act, works published without copyright notice between January 1, 1978 and March 1, 1989 retained copyright only if efforts to correct the omissions were made within 5 years (ex. placing notice on unsold copies).	Life of author/creator + 70 years  If work has multiple authors/creators, the term is measured by the life of the longest-lived author + 70 years.  If work is of corporate authorship, a work for hire, or its author remains anonymous or uses a pseudonym, the shorter of 95 years from publication or 120 years from creation.
Created before January 1, 1978 but published between January 1, 1978 and December 31, 2002	January 1, 1978 – The 1976 Act eliminating common law copyright became effective.	Life of author/creator + 70 years or December 31, 2047 – whichever is greater
Created before January 1, 1978 but not published	January 1, 1978 – The 1976 Act eliminating common law copyright became effective.	Life of author/creator + 70 years or December 31, 2002 – whichever is greater
Published from 1964-1977	When the work was published with copyright notice  Under the 1909 Act, works published without copyright notice went into the public domain upon publication.	28 years from when copyright began; now there is an automatic extension of 67 years for second term
Published from 1923-1963	When the work was published with copyright notice  Under the 1909 Act, works published without copyright notice went into the public domain upon publication.	28 years from when copyright began; could be renewed for 47 years, now extended by 20 years for a total renewal of 67 years.  If copyright is not renewed, work is included in the public domain.
Published before 1923	---	Work is in the public domain

### \*Note on Government Documents

Government Documents are publications prepared by an officer or employee of the U.S. Government as part of that person's official duties (17 U.S.C. 101) and as such are in the public domain and are not copyrighted. These may be photocopied without restrictions. However, there is a small number of U.S. government publications which have been copyrighted, and a notice will appear in them. These publications are subject to the college's general copyright policy. Examples of restricted government documents include classified information and trademarks (ex. Smokey the Bear).