TITLE: **ACADEMIC USE OF COPYRIGHT**

DATE(S) OF POLICY AND POLICY REVISION APPROVALS: **February 25, 2020**, **August 27, 2002**

In accordance with Title 17 of the U.S. Code, Sections 107, 108, 110, the Digital Millennium Copyright Act, and the TEACH Act., Luzerne County Community College Library has adopted best practice guidelines for the fair use of copyrighted materials for academic purposes by faculty, staff, and students. The LCCC librarians are available to address general questions or provide further guidance as these guidelines are not exhaustive.

**Title 17– Copyrights**

**Fair Use Defined**

Title 17, Section 107 states that *“…the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified…., for purposes such as criticism, comment, news reporting, teaching….., scholarship, or research, is not an infringement of copyright.”*

**Determining Fair Use**

Fair usehas four factors of determination to be considered:

 *“…1) The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;*

 *2) the nature of the copyrighted work;*

 *3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and*

 *4) the effect of the use upon the potential market for or value of the copyrighted work.”*

**The Fair Use of Media Materials in the Classroom**

Title 17, Section 110 as amended by the TEACH Act addresses the performance or display of music, motion pictures and videos under certain circumstances. Section 110 states

“…*the following are not infringements of copyright* *… (1)* *performance or display of a work by instructors or pupils in the course of face-to-face teaching activities… unless, in the case of a motion picture or other audiovisual work, [the] copy…was not lawfully made under this title…(2)…the performance of a nondramatic literary or musical work …comparable to that which is typically displayed in the course of a live classroom session [can be digitally transmitted] if*

*A) the performance or display is made by…an instructor as an integral part of a class session…*

*(B) the performance or display is directly related and of material assistance to the teaching content of the transmission;*

*(C) the transmission is made solely for, and, to the extent technologically feasible, …limited to—(i) students officially enrolled in the course for which the transmission is made…*

*(D) the transmitting body or institution—(i) institutes policies regarding copyright…and (ii) in the case of digital transmissions—*

 *(I) applies technological measures that reasonably prevent—(aa) retention of the work…for longer than the class session; and (bb) unauthorized further dissemination of the work…*

 *(II) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination;*

*(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if—(A) there is no direct or indirect admission charge; or (B) the proceeds…are used exclusively for educational, religious, or charitable purposes…*

*In paragraph (2), the term “mediated instructional activities” … refers to activities that use such work as an integral part of the class experience, controlled by…the instructor and analogous to the type of performance or display that would take place in a live classroom setting. The term does not refer to… textbooks, course packs, or other material in any media, copies or phonorecords of which are typically purchased or acquired by the students in higher education for their independent use…”*

**Reproduction of Media Materials**

Title 17, Section 108 as amended by the Digital Millennium Copyright Act address the reproduction of media works.

*“(a)…Except as otherwise provided in this title…, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, except as provided in subsections (b) and (c), or to distribute such copy or phonorecord, under the conditions specified by this section, if*

*(1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;*

*(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and*

*(3) the reproduction or distribution of the work includes a notice of copyright.*

*(b)The rights of reproduction and distribution under this section apply to three copies or phonorecords of an unpublished work duplicated solely for purposes of preservation and security …if*

*(1) the copy or phonorecord reproduced is currently in the collections of the library or archives; and*

*(2) any such copy or phonorecord that is reproduced in digital format is not otherwise distributed in that format and is not made available to the public in that format outside the premises of the library or archives.*

*(c) The right of reproduction under this section applies to three copies or phonorecords of a published work duplicated solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, or if the existing format in which the work is stored has become obsolete, if—*

*(1) the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price; and*

*(2) any such copy or phonorecord that is reproduced in digital format is not made available to the public in that format outside the premises of the library or archives in lawful possession of such copy.*

*For purposes of this subsection, a format shall be considered obsolete if the machine or device necessary to render perceptible a work stored in that format is no longer manufactured or is no longer reasonably available in the commercial marketplace.*

**Guidelines for Copyrighted Materials**

**For literary works (both fiction and non-fiction):**

* 1 article per periodical issue;
* 3-5 articles or less than 10% per periodical title, per year;
* 3-5 chapters, essays, etc., or less than 10% from a single non-periodical title (monograph), per year.
* Full copies of materials typically violate fair use and shouldn't be made available unless they can't be acquired at a "reasonable price" (e.g. a book out of print). This applies to the reproduction and distribution of copyrighted textbooks.

For periodicals, these guidelines apply to the use of the physical journal and print or electronic copies. For monographs, these guidelines apply to the use of print or electronic copies.

**For media works:**

* If using images in an assignment or presentation give proper attribution to the copyright holder.
* Academic videos, entertainment videos used for educational purposes, and music can be played in the face-to-face classroom and in online classrooms provided

 (1) the copy was legally obtained,

 (2) there are no licensing agreements precluding the contents use,

 (3) the online course is accessible only to LCCC students and the students aren’t able to save and redistribute the media, and

 (4) the content is used within fair use guidelines.

* For videos or music limit the use to only the portion or amount integral to the lesson unless explicit copyright permission has been obtained to use the content in full (per TEACH Act restrictions).
* If the media is legally hosted online by a third party, it is suggested that whenever possible provide the url to the content, rather than creating digital copies (per TEACH Act restrictions).
* Do not copy and distribute physical copies to students unless explicit permission to do so has been obtained.
* The use of a personal account for commercial streaming services such as Netflix, Hulu, Amazon, etc., is explicitly prohibited. Public display violates their terms of service agreements, even for educational purposes.

Luzerne County Community College is allowed, under Section 108, to produce one copy of a media material (slide presentation, 16 mm film, filmstrip, compact disc, video tape, etc.) which is owned by LCCC, for instructors to utilize for teaching purposes. For example: A biology videotape purchased by and housed in the LCCC library may be copied for use by instructors in our biology department, while the original remains in the library. If a copy of a mediated work owned by LCCC is deteriorating, or if the format is no longer in use at the College, the College is authorized to make up to three copies of the existing work in the same or another acceptable format, if the work cannot be replaced at a fair price. For example: A 16 mm history film is brittle and could easily break during a classroom presentation. The College may copy this film onto DVD, since the College no longer purchases 16 mm projectors, and because the same historical information is not available for purchase.

Luzerne County Community College cannot, without permission under US Copyright Law:

make multiple copies of a mediated work; alter, delete parts of, or insert material into mediated works; make copies of mediated works for students; excerpt sections of a mediated work to produce a new work; copy rented materials; copy mediated works in our possession for use by other institutions; engage in systematic reproduction of all mediated materials in our possession; or, copy musical works, motion pictures, etc. except those of an educational nature, and only per allowable copyright exemptions.

Any faculty or staff member needing assistance in obtaining information on purchasing materials or obtaining copyrights permission for alternative uses of media currently in the College’s possession should contact the Library staff.