

TEXAS STATE TECHNICAL COLLEGE
STATEWIDE OPERATING STANDARD

No. ES 2.11	Page 1 of 4	Effective Date: 08/31/15
DIVISION:	Educational Services	
SUBJECT:	Copyright Compliance	
AUTHORITY:	United States Code, Title 17, Copyright Law	
PROPOSED BY:	<i>Original Signed by Elton E. Stuckly, Jr.</i>	
TITLE:	Executive Vice Chancellor & Chief Operations Officer	Date: 08/31/15
RECOMMENDED BY:	<i>Original Signed by Elton E. Stuckly, Jr.</i>	
TITLE:	Executive Vice Chancellor & Chief Operations Officer	Date: 08/31/15
APPROVED BY:	<i>Original Signed by Mike Reeser</i>	
TITLE:	Chancellor	Date: 08/31/15

STATUS: Approved by the Chancellor 08/31/15

HISTORICAL STATUS: Reviewed/Revised 07/2015
 Approved by MC 05/09/13
 Revised/Reviewed April 2013
 Approved by LA 6/20/08
 Proposed 06/03/08

POLICY:

Compliance

PERTINENT INFORMATION

The Copyright Act of 1976 codified as 17 United States Code (U.S.C.) is the primary basis of copyright law in the United States, as amended by several later enacted copyright provisions. The Act, through its terms, preempts all previous copyright law in the United States including state copyright laws insofar as they conflict with the Act. It became Public Law number 94-553 on October 19, 1976 and went into effect on January 1, 1978.

17 U.S.C. outlines the role of copyright relating to subject matter and scope, ownership and transfer, duration of copyright, copyright infringement and remedies, digital audio recording devices and media, sound recordings and music videos, copyright protection and management systems and protection of original designs.

The Digital Millennium Copyright Act (DMCA) of 1998 incorporates provisions of World International Property Organization (WIPO) treaties signed in 1996. Title 17 of the U.S. Code was amended to extend the reach of copyright to digital media, while limiting the liability of online providers from copyright infringement by their users. The DMCA requires nonprofit educational institutions to:

- Appoint a designated agent to receive reports of copyright infringement and register the agent with the U.S. Copyright Office.
- Provide all users of its system or network (faculty, staff and students) informational materials that describe and promote compliance with the copyright laws of the United States.
- Comply with “take down” requests.
- Apply measures to protect against unauthorized access to content and dissemination of information.
- Use only lawfully acquired copies of copyrighted works.
- Display or perform only "reasonable and limited portions" of copyright works.

The Technology, Education and Copyright Harmonization Act of 2002, known as the TEACH Act, was signed into law on November 2, 2002 and amended U.S.C. 17, Sections 110 and 112. The importance of the TEACH Act stems from previous copyright laws that allow educators to copy documents or use copyrighted materials in a face-to-face classroom setting. Because of the growth of distance education, revisions in certain sections of the U.S. Copyright Act needed to be made.

The TEACH Act specifically applies only to a "government body or an accredited nonprofit educational institution." It clarifies what uses are permissible with regard to distance education and outlines the requirements information technology staff and students of a higher education institution must follow in order to be in compliance with the TEACH Act. The TEACH Act requires that each educational institution must "institute policies regarding copyright." Other requirements of the TEACH Act are:

- Publicize the institution’s copyright policy and provide informative resources.
- Utilize legally acquired copies.
- Utilize technological measures that reasonably prevent recipients from retaining copyrighted works beyond the classroom session and prevent further distribution of them.
- Use the digital version if commercially available (changing an analog version to digital is prohibited).
- Provide notice to students that materials used in connection with the course may be subject to copyright protection.

- Provide access to copyrighted materials only to those students currently enrolled in the course.
- Prohibit the transmission of textbook materials, i.e., materials typically purchased or acquired by students, or works developed specifically for online uses.

DELEGATION OF AUTHORITY

The Chancellor or the Chancellor's designee will assign appropriate staff to ensure the provisions of this statewide operating standard are implemented with established and documented procedures.

DEFINITIONS

Exclusive Rights: As established by 17 U.S.C. 106, the owner of a copyright has exclusive rights as follows:

- To reproduce the copyrighted work in copies or phonorecords;
- To prepare derivative works based upon the copyrighted work;
- To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
- In the case of 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, to display the copyrighted work publicly; and
- In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

Certain exceptions to exclusive rights such as "Fair Use" and "Performance and Displays" in face-to-face teaching and distance education are allowed under 17 U.S.C.

Fair Use: Fair use is an ambiguous concept, and the law does not exactly state what would be labeled fair use or not. The fair use of a copyrighted work including reproductions in various media for purposes such as teaching (including multiple copies for class use), scholarship, or research is not an infringement of copyright. The following criteria are applied in determining fair use:

- The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes.
- The nature of the copyrighted work.
- The amount and importance of the portion used in relation to the copyrighted work as a whole.

- The effect of the use upon the potential market for or value of the copyrighted work.

OPERATING REQUIREMENTS

1. Students, faculty and staff at TSTC will have access to resources and documentation on the fundamentals of copyright law.
2. All users of TSTC computers, networks, or other resources will comply with all state and federal laws including copyright laws.
3. Faculty members may reproduce copyrighted works for research or for instructional purposes in live or distance learning classes without securing permission and without paying royalties when the circumstances are compatible with what the law calls "fair use."
4. Under the Digital Millennium Copyright Act, Title II, Section 512(c)(3), any allegation of copyright infringement by TSTC students, faculty, and/or staff will be investigated.
 - a. Copyright owners who believe TSTC users are infringing on copyright protected work may send a notice to TSTC General Counsel. The notification of claimed infringement must contain the information required by and otherwise comply with the Digital Millennium Copyright Act, Title II, Section 512(c).
 - b. If, after investigation, the claimed copyright infringement is determined to be valid, TSTC General Counsel will notify the appropriate TSTC administrator for appropriate action.

PERFORMANCE STANDARDS

The fulfillment of this Statewide Operating Standard will be judged by the following criteria:

1. A single set of guidelines and resources relating to copyright law for all TSTC locations is developed by the designated copyright authorities and posted on the TSTC website.
2. All TSTC employees are trained in copyright compliance.
3. All TSTC students are notified of course materials which may be copyrighted and any restrictions related to use of copyrighted materials