



COPYRIGHT INFRINGEMENT-POLICIES AND SANCTIONS

PURPOSE:

The purpose of the Copyright Infringement Policy is to comply with copyright law for the use of copyrighted material on West Virginia Junior College's computers and network. In addition, this policy seeks to make aware to all users the seriousness as well as possible consequences for unauthorized use of copyrighted material. It is illegal. For example, the copying/downloading/uploading of copyrighted materials (i.e. music) to other media (i.e., CD's, storage media and networks) from peer-to-peer networks, such as KaZaA, Morpheus or Gnutella, is against the law. If users do not own the copyright, distribution of such copyrighted works should not occur.

It is the policy of WVJC to comply with all copyright laws. All faculty, staff, and students are expected to be aware of and follow these requirements. Any member of the campus community practicing unauthorized use or distribution of copyrighted material will be subject to sanctions by the School up to dismissal from school or termination of employment. Individuals would also be subject to Federal criminal offenses for copyright law violations.

DEFINITIONS:

What is Copyright?

"Copyright is a form of protection provided by the laws of the United States (title 17, U.S. Code) to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. Section 106 of the 1976 Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

- **To reproduce** the work in copies or phonorecords;
- To prepare **derivative works** based upon the work;
- **To distribute copies or phonorecords** of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- **To perform the work publicly**, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works;

- **To display 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; and
- In the case of **sound recordings, to perform the work publicly** by means of a **digital audio transmission.**”

“In addition, certain authors of works of visual art have the rights of attribution and integrity as described in section 106A of the 1976 Copyright Act. For further information, request Circular 40, ‘Copyright Registration for Works of the Visual Arts.’

“It is illegal for anyone to violate any of the rights provided by the copyright law to the owner of copyright. These rights, however, are not unlimited in scope. Sections 107 through 121 of the 1976 Copyright Act establish limitations on these rights. In some cases, these limitations are specified exemptions from copyright liability. One major limitation is the doctrine of ‘fair use,’ which is given a statutory basis in section 107 of the 1976 Copyright Act. In other instances, the limitation takes the form of a ‘compulsory license’ under which certain limited uses of copyrighted works are permitted upon payment of specified royalties and compliance with statutory conditions. For further information about the limitations of any of these rights, consult the copyright law or write to the Copyright Office.”(www.loc.gov/copyright)

US Copyright Office (www.copyright.gov)

What is the Digital Millennium Copyright Act (DMCA)?

The Digital Millennium Copyright Act, H.R. 2281, was enacted into law on October 28, 1998. This act amended the copyright law to provide regulations for works cited via the World Wide Web (the Internet). To review an on-line copy of this act, please go to <http://lcweb.loc.gov/copyright/legislation/hr2281.pdf>

What is Infringement? An infringement is “a violation, of a law, regulation, or agreement; a breach.” It is an “encroachment, as of a right or privilege.”

SCOPE:

Copyright is an issue of particular seriousness because technology makes it easy to copy and transmit protected works over our networks. While West Virginia Junior College encourages the free flow of ideas and provides resources such as the network to support this activity, we do so in a manner consistent with all applicable laws. WVJC does not condone the illegal or inappropriate use of material that is subject to copyright protection.

WHAT KINDS OF ACTIVITIES VIOLATE FEDERAL LAW?

Following are some examples of copyright infringement that may be found in a college setting:

- Downloading and sharing MP3 files of music, videos, and games without permission of the copyright owner
- Using corporate logos without permission
- Placing an electronic copy of a standardized test on a department's web site without permission of the copyright owner
- Enhancing a departmental web site with music that is downloaded or artwork that is scanned from a book, all without attribution or permission of the copyright owners
- Scanning a photograph that has been published and using it without permission or attribution
- Placing a number of full-text articles on a course web page that is not password protected and allowing the web page to be accessible to anyone who can access the Internet
- Downloading licensed software from non-authorized sites without the permission of the copyright or license holder
- Making a movie file or a large segment of a movie available on a web site without permission of the copyright owner

SHARING AND DOWNLOADING MP3 FILES (OR OTHER TYPES OF MUSIC FILES) AND VIDEOS

It is true that some copyright holders give official permission to download MP3 files and you might be able to find a limited number of videos that are not copyright protected. It is also true that some MP3 files are copyright free and some MP3 files can be legally obtained through subscription services. However, most MP3 and video files that are shared do not fall into any of these categories.

US Copyright Law allows you to create MP3s only for the songs to which you already have rights; that usually means you purchased the CD or downloaded a file via a subscription service. US Copyright Law allows you to make a copy of a purchased file only for your personal use. Personal use does not mean that you can give a copy to other people, or sell a copy of it.

COMBATTING THE UNAUTHORIZED DISTRIBUTION OF COPYRIGHTED MATERIAL:

West Virginia Junior College does monitor network and other computer usage. In the process of doing that work College staff may become aware of violations of the law or College policy. If violations are discovered or suspected, College personnel may report infringement to appropriate authorities or take other action, including, but not limited to: warning the user, removing the material, or terminating access to the material. Any member of the campus community practicing unauthorized use or distribution of copyrighted material will be subject to sanctions by the School up to dismissal from school or termination of employment. Individuals would also be subject to Federal criminal offenses for copyright law violations.

LEGAL ALTERNATIVES

West Virginia Junior College offers legal alternatives to illegal downloading. A list of sites for legal downloading:

<http://www.educause.edu/legalcontent>

SUMMARY OF CIVIL AND CRIMINAL PENALTIES FOR VIOLATION OF FEDERAL COPYRIGHT LAWS

Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or “statutory” damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For “willful” infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys’ fees. For details, see Title 17, United States Code, Sections 504, 505.

Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense.

For more information, please see the web site of the U.S. Copyright Office at www.copyright.gov, especially their FAQ’s at www.copyright.gov/help/faq.