



Administrative Rules

SUBJECT: Copyright and Fair Use

AR#: 4.02.007

Based on Board Policy:

[D-2, Academic Freedom and Responsibility](#)

Recommended by Council/President:

Academic and Campus Affairs Council

Date Approved/Amended:

03/07/1988; amended 09/29/00, 06/01/12

Value Statement

The College supports enforcement of copyright law for the protection of its employees as both creators and users of copyright protected works.

The College requires that ACC faculty, staff and students comply with federal law regarding the use of copyright protected materials.

In addition, in the spirit of promoting "the progress of science and the useful arts," the college supports the fair use for such purposes as criticism, comment, news reporting, teaching scholarship or research and reproduction of copyrighted materials (including multiple copies for classroom or library use), for educational purposes as outlined in the federal Copyright Law (PL94-553).

Administrative Rule

1. This administrative rule is based upon the original Copyright Act of 1976 and the amendments added by the Digital Millennium Copyright Act signed into law in 1998.
2. This administrative rule applies to all ACC faculty, staff and students who make use of materials created by entities other than themselves. This includes but is not limited to materials used for classroom teaching, out of class presentations, online distribution, professional conferences, homework assignments, electronic transmission and for college publication.
3. Copyright issues dealing with intellectual property created by ACC faculty, staff and students are covered in the administrative rule on intellectual property.
4. The College considers the educational environment to consist of traditional on-campus instruction, distance education, or other synchronous or asynchronous mediated instruction.
5. Faculty, staff and students are expected to comply with copyright law and to apply the fair use criteria to each use of material of which they are not the originator.

President/CEO: Richard M. Rhodes Date: 11/01/13

6. In compliance with the Section 512(2)(c)(2) of Chapter 5, Title 17 of United States Code, the College shall have a DESIGNATED AGENT “to receive notifications of claimed infringement” and “other contact information which the Register of Copyrights may deem appropriate.” The designated agent for Austin Community College District will be the Copyright Officer.

ACC as an Online Service Provider (OSP)

1. Under the Digital Millennium Copyright Act (DMCA), ACC is considered to be the online service provider (OSP) for faculty, staff and students. As such, ACC has the responsibility to remove or deny access to online websites within its domain that are found to be in violation of copyright.
2. Based upon the DMCA, it is the producer (faculty, staff or student) of the online material, not the College that is liable for any copyright infringements. This increases the need for due diligence in ensuring that the use of the material meets the fair use criteria or that permission is obtained. Faculty, staff and students are encouraged to be diligent in compliance with Copyright, Fair Use and DMCA.
3. There are four criteria presented in the copyright law that establish the grounds for fair use of copyright protected materials. All four criteria must be taken into account and the degree to which each supports fair use must be considered. Whenever there is an uncertainty, faculty staff and students are encouraged to seek permission from the copyright holder before using the material.

Fair Use

Fair Use is the use of a copyrighted work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.

In determining whether the use made of a work in any particular case is a fair use, the factors to be considered shall include:

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 College encourages faculty, staff and students to be diligent in the application of the fair use criteria. Through diligent application college constituents and the College avail themselves of protection from infringement by establishing “reasonable grounds for believing that his or her use of the copyrighted work was a fair use” according to Sections 107 and 504c of United States Code title 17.