

## **PROVIDENCE COLLEGE COPYRIGHT POLICY**

The federal Copyright Law (Title 17, United States Code, Section 101 and following) requires all members of the Providence College community to respect the proprietary rights of owners of copyrights and to refrain from actions that constitute an infringement of copyright or other proprietary rights. Copyright Compliance Guidelines have been developed to assist members of the community to comply with federal copyright law. Members of the Providence College community are expected to become familiar with these Copyright Guidelines, to act with careful consideration of their requirements, and to seek assistance whenever necessary and as directed.

Willful disregard of Providence College's Copyright Policy by members of the community may result in personal liability in the event that legal action is taken against them. Further, the College may refuse to defend employees named in a court suit and employees may be personally liable for any damages incurred as a result of the copyright violation.

<b>COPYRIGHT COMPLIANCE GUIDELINES.....</b>	<b>4</b>
1. PURPOSE.....	4
2.INTRODUCTION .....	4
2.1 What Copyright? .....	4
2.2 What Is Protected By Copyright?.....	4
2.3 Copyright Duration.....	5
2.4 When Do U.S. Works Pass Into the Public Domain? .....	5
2.5 What Is Fair Use? .....	6
2.6 What is Creative Commons .....	7
2.7 Copyright and Foreign Works .....	7
3.0 GUIDELINES FOR USING PRINTED MATERIALS .....	7
3.1 Classroom Handouts .....	7
3.2 Coursepacks .....	7
3.3 Reserves .....	9
3.4 Licensed Databases .....	9
3.5 Photocopying in the Library and Elsewhere on Campus .....	10
3.6 Photocopying/Scanning .....	11
3.7 Interlibrary Loan .....	11
4.0 GUIDELINES FOR USING MULTIMEDIA AND THE INTERNET .....	11
4.1 Technology-Enhanced Instruction and the TEACH Act .....	13
4.2 The Internet and the Providence College Intranet .....	14
4.3 Sakai and the Use of Digital Materials for Instruction .....	15
4.4 Fair Use at it Relates to Sakai.....	15
4.5 Instructor-Authored Materials .....	15
4.6 Materials for Which Providence College Already Holds Permission .....	15
4.7 Materials That Do Not Require Copyright Permission.....	16
4.8 Use of Copyright-Protected Materials .....	16
4.9 Student-Authored Materials .....	18
4.10 Sakai and the Use of Digital Materials for Non-Instructional Purposes .....	18
4.11 Support for Faculty in Using Digital Resources .....	19
5.0 GUIDELINES FOR USING FILM, VIDEO/DVDS, IMAGES, AND MUSIC .....	19
5.1 Film & Video/DVDs .....	19
5.1.1 Use of Film and Video in Courses .....	19
5.1.2 Non-Course Use of Videos .....	20
5.1.3 Purchased, Rented, or Borrowed Films and Videos .....	21
5.1.4 Producing Original Media .....	21
5.1.5 Copying or Converting Media .....	21
5.1.6 Video Recording Off-Air .....	22
5.2 Images .....	22
5.2.1 Use of Visual Images .....	22
5.2.2 Use of Copystand Photography .....	23
5.3 Music .....	24
5.3.1 Photocopying Sheet Music for Educational Purposes .....	24
5.3.2 Copying Sound Recordings .....	24
5.3.3 Performance .....	25
5.3.4 Public Performance .....	25
5.3.5 Use of Pre-recorded Music in Video Production .....	26
5.3.6 Other Issues .....	26
6.0 HOW TO OBTAIN COPYRIGHT PERMISSION .....	26

6.1 Information to Include in a Permission Request .....	26
6.2 Seeking Copyright Permission for Online Use of Course Materials .....	27
6.3 Student-Authored Materials .....	27
7.0 RESOURCES FOR ANSWERS TO COPYRIGHT QUESTIONS .....	27
7.1 Providence College Offices and Departments .....	27
8.0 ACKNOWLEDGEMENTS .....	28
9.0 APPENDICES .....	28
9.1 Appendix A: External Copyright-Related Resources .....	28
9.2 Appendix B: Definitions .....	31
9.3 Appendix C: Permission Forms .....	31
9.4 Appendix D: Copyright Guidelines for Exhibiting Movies and Other Audiovisual Works.....	33

## **COPYRIGHT COMPLIANCE GUIDELINES**

### **1. PURPOSE**

The purpose of the Providence College Copyright Compliance Guidelines is to provide members of the College community, including faculty, administrators, staff, librarians, students and the College's agents, with a standard and practical approach for complying with the College's Copyright Policy and U.S. copyright law. Given the complexities of copyright law and the potential severe implications of copyright infringement to the College and individual employees, these Guidelines include a summary of the law as it relates to higher education, procedures for interpreting and negotiating the law's mandates, and references to many helpful internal and external resources. These Guidelines are not designed or meant to be, or substitute for, specific legal advice. Whether or not a proposed course of action is permissible under copyright law often depends on particular facts and circumstances; therefore, members of the College community are encouraged to seek proper guidance and assistance whenever difficult questions or problems arise.

### **2. INTRODUCTION**

#### **2.1 What Is Copyright?**

Copyright law (Title 17, U.S. Code) provides authors/creators and distributors of creative works with an incentive to share those works by recognizing the right to compensation when beneficiaries of the creative works use them in certain ways. Individuals wishing to reuse or reproduce a particular copyright-protected work must ordinarily obtain copyright permission. There are, however, specific exceptions that permit the use of specific materials in certain academic settings. See the "What Is Fair Use?" section of this document for additional information.

#### **2.2 What Is Protected By Copyright?**

The rights granted by U.S. copyright law are intended to benefit "authors" of "original works of authorship," including literary, dramatic, musical, architectural, cartographic, choreographic, pantomimic, pictorial, graphic, sculptural and audiovisual creations. This means that virtually any creative work—including books, magazines, journals, newsletters, maps, charts, photographs, graphic materials, and other printed materials; unpublished materials, such as analysts' and consultants' reports; and non-print materials, including electronic content, computer programs and other software, sound recordings, motion pictures, video files, sculptures, and other artistic works—is almost certainly protected by copyright. Among the exclusive rights granted to those "authors" are the rights to reproduce, distribute, publicly perform and publicly display their works.

These rights provide copyright holders control over the use of their creations and an ability to benefit, monetarily and otherwise, from the use of their works. Copyright also protects the right to "make a derivative work," such as a movie from a book; the right to include a work in a collective work, such as publishing an article in a book or journal; and the rights of attribution and integrity for "authors" of certain works of visual art. Copyright law does not protect ideas, data or facts. A work may be protected by copyright even if published without a copyright notice. Copyright protection arises automatically as soon as the work has been fixed in a tangible medium, regardless of whether a copyright notice is on the work.

In the U.S. the general rule of copyright duration for a work created on or after January 1, 1978 is the author's life plus 70 years. This is often referred to as "life-plus-70." Works created by companies or other types of organizations generally have a copyright term of 95 years. For more information on copyright duration, visit <http://www.copyright.gov/circs/> and download Circular number one, or see the chart below for highlights.

### 2.3 Copyright Duration

DATE OF WORK	COPYRIGHT TERM
Published before 1923	Copyright expired. Now in the public domain.
Published from 1923 - 63	If published with notice and renewed, 95 years. If not renewed, now in the public domain.
Published from 1964-77	If published with notice, 95 years
Created 1-1-78 or after	Life + 70 years (if work of corporate authorship, the shorter of 95 years from publication, or 120 years from creation)
Created before 1-1-78 but not published	Life + 70 years
Created before 1-1-78 but published between then and 12-31-2002	Life + 70 years

A more detailed explanation of copyright terms is available at [http://commons.wikimedia.org/wiki/Commons:Hirtle\\_chart](http://commons.wikimedia.org/wiki/Commons:Hirtle_chart).

### 2.4 When do U.S. Works Pass into the Public Domain?

A public domain work is a creative work that is not protected by copyright and which may be freely used by everyone. The reasons that the work is not protected include, but are not limited to:

- the term of copyright for the work has expired;
- the author failed to satisfy statutory formalities to perfect the copyright; or
- the work is a work of the U.S. Government.

For a detailed analysis, see: [http://commons.wikimedia.org/wiki/Commons:Hirtle\\_chart](http://commons.wikimedia.org/wiki/Commons:Hirtle_chart).

### 2.5 What Is Fair Use?

Fair use is addressed in Title 17, section 107 of the U.S. Code which states. “Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. 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 fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.”

Because fair use is an imprecise concept, and the law does not state exactly which uses of a copyrighted work will be considered “fair,” a very circumstance-specific analysis is required. To help avoid confusion and minimize the risk of copyright infringement, Providence College interprets the following situations as fair use:

- Quotation of short passages in a scholarly or technical work for illustration or clarification of the author’s observations.
- Reproduction of material for classroom use where the reproduction is unexpected and “spontaneous” as described by the Copyright Clearance Center (<http://www.copyright.com/>).

“The copying is at the instance and inspiration of the individual teacher; and the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.”—*from the copying guidelines agreed to by the Association of American Publishers and The Author’s League of America*

- Use in a parody of short portions of the work itself.
- A summary of an address or article, which may include quotations of short passages of the copyright-protected work.

The fair use of film, visual images, music, and other media are addressed elsewhere in this document. Please see those sections for more specific information.

If the intended use does not meet the above criteria and the work is protected by copyright, the user will probably need to obtain permission to use the work from the copyright holder or its agent.

Please refer to the Association of Research Libraries (ARL) “Know Your Copy Rights” publication “Copyright Basics: Fair Use” for guidelines on determining use:  
[http://www.copyright.com/Services/copyrightoncampus/basics/fairuse\\_list.html](http://www.copyright.com/Services/copyrightoncampus/basics/fairuse_list.html).

## **2.6 What is Creative Commons?**

Creative Commons (CC) is a non-profit organization whose purpose is to provide a means by which authors, scientist, artists and curators may make their creative works legally available for use by others. By virtue of a Creative Commons License (different versions of a license are available at [www.creativecommons.org](http://www.creativecommons.org)), copyright holders can waive some copyrights to permit limited use of the works. Many of the CC licenses allow for non-profit, educational use without the need to request specific permission or pay a fee.

## **2.7 Copyright and Foreign Works**

The U.S. is a signatory to the leading international copyright treaties including the Berne Convention. As such, when one uses a copyright-protected work from another country, the protections provided to works by U.S. copyright law automatically apply to the use of that work as well (assuming the use takes place in the U.S.).

## **3. GUIDELINES FOR USING PRINTED MATERIALS**

### **3.1 Classroom Handouts/Copies**

The determination of whether classroom handouts (i.e., an entire work or a sizable portion thereof) require copyright permission is based on fair use analysis. If the handout is a new work for which the user could not reasonably be expected to obtain permission in a timely manner and the decision to use the work is spontaneous, that work may be used without obtaining permission. If the handout is repeated from semester to semester and/or involves works that have existed long enough that one could reasonably be expected to obtain copyright permission in advance of the use, the user must obtain copyright permission to use the work. See <http://www.copyright.com/Services/copyrightoncampus/basics/fairuse.html> for more information.

The following are examples of fair use, as listed in the ~~Association of Research Libraries (ARL)~~ ARL's "Know Your Copy Rights" publication (2007):

- Copying reasonable portions of longer works for your class;
- Copying a timely article (or one you've recently discovered that is relevant for your class) when it's unreasonable to expect a sufficiently rapid reply to a request for permission; and
- Copying a graphic or an image from a work to display in your lectures.

### **3.2 Coursepacks – XanEdu, McGraw-Hill**

All articles, chapters and other individual works in any print or electronic coursepack require copyright permission. When creating coursepacks, faculty members are responsible for insuring that each item in the coursepack complies with copyright law. Copyright permission for coursepacks is usually granted by the academic period. To reuse a coursepack in subsequent academic periods (e.g., semester, winter session, summer session), the user probably needs to obtain permission again. Many copyright holders provide time-sensitive permission because

their own rights may be time-sensitive and could be transferred to different copyright holders within the foreseeable future.

The Providence College Bookstore works with the company XanEdu to create course packs and McGraw-Hill for Harvard Cases.

Please contact the Bookstore at 401-865-2181 (Michelle DiRubio or Joe Rushworth) for additional information.

### **3.3 Reserves—Paper or Electronic**

Course Reserves (paper or electronic) may be authorized for items owned by Providence College, personal copies, or items for which copyright permission has been obtained by the faculty member. An item owned or licensed by Providence College, or a personal copy, may be placed on Course Reserve in unaltered format without obtaining copyright permission. If faculty, staff, or students wish to reproduce additional copies of a work and place them on reserve for review, in either paper or electronic format, the requestor must obtain copyright permission. Interlibrary loan items may not be placed on reserve.

For more detailed information please contact the Library's Access Services staff (401-865-4422 1993) or visit the Library's web site. Additional information is available at <http://www.copyright.com/media/pdfs/Using-Electronic-Reserves.pdf>.

### **3.4 Licensed Databases, Electronic Journals and Electronic Books**

Providence College pays a fee, both as an individual institution and as a member of HELIN (the Higher Education Library Information Network), to provide the campus community with online access to a large number of licensed databases, electronic journals and electronic books (monographs, encyclopedias, etc.). The databases are online at <http://providence.libguides.com/subjects>. Users may search by title of database, journal or book in the online catalog <http://www.providence.edu/library>, as many resources are designated as electronic in the catalog with a direct link to the resource.

All have been licensed for use by Providence College students, faculty and staff for educational purposes. These purposes include:

1. individual access by all members of the PC community from within the library or elsewhere on campus and from off campus;
2. placement on and access via electronic reserves;
3. placement of a link to the article within the course management system (~~ANGEL~~-Sakai).

Individual members of the Providence College community may access, print, and reproduce these materials for educational use. All use is governed by the terms of the license agreement. If users are unsure whether or not the way they want to use the resource is within the terms of the license, they are advised to contact the Library's Access Services staff.



If the College subscribes to a licensed database, electronic journal or electronic book, additional copyright permission is not required. Instead of including the article in a coursepack, instructors should link to the article through Sakai. Librarians can assist faculty with linking to articles.

Among the many options for providing access to course reserves that are not licensed through the Library are the following:

- Link to the article if it is available online via open access;
- If a Creative Commons license exists, distribute the work in accordance with the terms of the license;
- Distribute without restriction articles in the public domain;
- Consider whether use of the work is a fair use;
- Inquire with Library staff about placing the article on reserve;
- Request that the Library license an online subscription if there is sufficient campus demand;
- Utilize XanEdu or McGraw-Hill to obtain copyright-compliant coursepacks (see Coursepacks);
- Obtain permission from the copyright owner through the Copyright Clearance Center.

### **3.5 Photocopying and Scanning by the Phillips Memorial Library + Commons**

- Requests for articles and short excerpts -- At the request of a Library user or another library on behalf of a Library user, the Phillips Memorial Library + Commons may ~~allow a user to~~ make one reproduction of an article from a periodical or a small part of any other work. The reproduction must become the property of the Library user, and the library must have no reason to believe that the reproduction will be used for purposes other than face-to-face teaching, private study, scholarship, or research. As recommended by Section 108 of the Copyright Act, the Library must display the Copyright policy at the place Library users make their reproduction requests to the Library.
- Replacement of lost, damaged or obsolete copies -- The Phillips Memorial Library + Commons may make up to three reproductions, including digital reproductions, of a published work that is lost, stolen, damaged, deteriorating or stored in an obsolete format. Any digital reproductions of copyrighted material must be kept within the confines of the Library (that is, available on its computers but not placed on a network accessible by the general, non-Providence College public) unless copyright permission has been secured.
- Requests for entire works -- One reproduction of an entire book or periodical by a user may be allowed in the Library at a Library user's request, or made by another library on behalf of a Library user upon certain conditions being met. These conditions include a determination that, after reasonable investigation, an authorized reproduction cannot be obtained at an acceptable price. Once made, the reproduction must become the property of the Library user. The Library must have no reason to believe that the reproduction will be used by the user for purposes other than face-to-face teaching, private study, scholarship, or research, and the

Library must display the register's notice at the location users make their reproduction requests.

- Archival reproductions of unpublished works -- Up to three reproductions of any unpublished work may be made for preservation or security, or for deposit for research use in another library or archive. This may be a photocopy or digital reproduction. If it is a digital reproduction, the reproduction may not be made available to the public outside the Library or archive premises. Prior to receiving any of the three reproductions permitted under this provision from another library or archive, the Phillips Memorial Library + Commons or archive must make a reasonable effort to purchase a new replacement at a fair price. The reproducing library or archive must also own the work in its collection.

### **3.6 Photocopying and Scanning By Students, Faculty, and Staff**

Students, faculty, and staff members may photocopy or scan materials for face-to-face teaching, private study, scholarship, or research ~~at the Phillips Memorial Library~~ provided the following criteria are met:

- The individual makes one photographic or scanned reproduction of an article from a periodical or a small portion of any other work;
- The reproduction becomes the property of the individual;
- The reproduction will not be used for purposes other than face-to-face teaching, private study, scholarship, or research; and,
- All photocopiers, printers and scanners on campus where the individual makes his/her reproductions will display the copyright policy.

Photocopying and scanning by students, faculty, and staff is subject to a fair use analysis as well. A single reproduction of a portion of a copyright-protected work, such as a copy or scanned reproduction of a journal article may be made without permission. Photocopying or scanning all the assignments from a book recommended for purchase by the instructor, making multiple reproductions of articles or book chapters for distribution to classmates, or reproducing material from consumable workbooks, all require permission.

In addition, a scanned copy may not be distributed via email (including attachments), posted on a web site, or in any other way distributed beyond use for face-to-face teaching, private study, scholarship, or research.

For guidance on Music photocopying, please see the Use of Music section of this document.

### **3.7 Interlibrary Loan (ILL)**

The Phillips Memorial Library + Commons may participate in ~~interlibrary loans (ILL)~~ ILL without obtaining permission provided that the "aggregate quantities" of articles or items received by the patron do not substitute for a periodical subscription or purchase of a work. The College follows

the National Commission on New Technological Uses of Copyrighted Works (CONTU) guidelines for defining "aggregate quantities." The CONTU guidelines state that requesting and receiving more than five articles from a single periodical within a calendar year, or a total of six or more copies of articles published within five years prior to the date of request, would be too many.

If the articles or items being copied have been obtained through a digital license, the Library must check the license to determine under what terms and conditions, if any, interlibrary loan is permitted.

#### **4. GUIDELINES FOR USING MULTIMEDIA AND THE INTERNET**

Multimedia refers to the use of more than one of the categories of work protected by copyright law, such as a PowerPoint file with images, video clips, or a sound recording with images. As part of the Conference on Fair Use (CONFU) process, Educational Multimedia Fair Use Guidelines were produced in 1996. These guidelines apply to use, without permission, of portions of lawfully acquired copyrighted works in educational multimedia projects created by educators or students for course-related work. Key elements of the guidelines are summarized below. ~~These guidelines are a starting point for those who are trying to apply the fair use doctrine to the creation of multimedia.~~

Materials owned or licensed by the College, or in the public domain, may be used without restriction. Otherwise, materials may be used in accordance with the fair use doctrine, which may allow for greater usage than the CONFU Guidelines. There is neither a consensus among universities that the Guidelines are binding nor an approved policy at Providence College.

##### **Time**

Instructors may use their multimedia projects for a period of up to two years after first instructional use. Usage beyond that period requires permission for each copyrighted portion of the work.

##### **Copying and Distribution**

Instructors may prepare a total of three copies—one copy for use, one copy for preservation and replacement purposes only, and one copy for Library reserve.

##### **Copyright Notice**

Though it can be difficult to determine what is copyright protected and what is in the public domain, the multimedia creator is responsible for adhering to copyright law. The project should contain the following notice:

"Certain materials are included under the Fair Use exemption of U.S. Copyright Law and have been prepared according to the educational multimedia Fair Use guidelines; further use is restricted."

Credit the sources and display the copyright notice and copyright ownership information if shown in the original source. Crediting the source must adequately identify the source of the work, and, if available, provide a full bibliographic description (including author, title, publisher,

and place and date of publication). The copyright notice includes the word "Copyright" or the copyright symbol, and whenever possible, the name of the copyright holder and the year of first publication. Any alterations of copyrighted items must be noted.

#### **4.1 Technology-Enhanced Instruction and the TEACH Act**

The TEACH (Technology, Education, and Copyright Harmonization) Act of 2002 updated Section 110(2) of the Copyright Act to extend some of the face-to-face teaching copyright exemptions to online (hybrid or distance) learning.

Under the TEACH Act, non-dramatic literary and musical works (e.g., an essay, a poem, a song) and "reasonable and limited portions" of other works may be displayed or performed in class sessions that are transmitted online, subject to a number of specified conditions.

The College has adopted the following guidelines, based on the North Carolina State University Libraries' TEACH Toolkit (<http://www.provost.ncsu.edu/copyright/toolkit/>), for distance learning and other forms of online instructional delivery:

1. The material should be used only for instructional purposes as an integral part of the course session.
2. The copy of the material used must be lawfully made and lawfully acquired.
3. The course material should be accessible only to students in the course, for the duration of the course, through a secure, password-protected course Web site or through a password-protected course management system (such as Sakai).
4. The instructor should post a notice to students that copyrighted work is being made available through the course and that students may not distribute or use the material outside of the course. An example of such a notice follows:

United States law governs the use of copyrighted material. These laws prohibit reproduction of the material for purposes other than the intended instructional purposes of this course. Other uses, including commercial use and any further electronic distribution of the material, may constitute copyright infringement.

5. In addition to limiting access through user authentication (username/password), reasonable controls should be employed to prevent students from downloading and distributing the material. This can be done by using technologies (e.g., streaming, Flash<sup>a</sup>) that prevent users from downloading or manipulating individual files.
6. There is no exemption under the TEACH Act for the use of works that were specifically produced for the purpose of educational use. Examples of such materials are electronic course packs and electronic textbooks provided by publishing companies. This type of material may be used only in accordance with the contracts or licenses entered into between the intellectual property holder and the user.
7. Materials may not be digitized if they are already available in a digital format unless the materials are not readily available in a reasonable timeframe and at a reasonable cost. In

addition, materials may be digitized if no digital version is available or the digital version available is subject to technological measures that prevent its use.

8. As noted above, in the case of non-dramatic literary or musical works (e.g., an essay, a poem, or a song), the entire work may be transmitted in an online class session. Visual images that may be presented in a face-to-face class (e.g., a photograph or a painting) may also be transmitted online. However, only "reasonable and limited portions" of other works, such as a motion picture, may be presented online.

The TEACH Act applies only to class sessions (face-to-face teaching, online learning, distance learning) and as part of mediated instructional activities directly related to the teaching content, not to other aspects of technology-enhanced instruction (such as the distribution of background material to students). The fair use doctrine applies to all aspects of online instruction, and in some instances fair use may permit more extensive use of copyrighted materials than that specifically permitted by the TEACH Act.

#### **4.2 The Internet and the Providence College Intranet**

Resources available on the Internet or Intranet (<http://internal.providence.edu>) may be displayed in face-to-face teaching and, with some exceptions, in distance learning; however, the guidelines for creating teaching and learning resources with materials found on the Internet or Intranet may be more restrictive. Specifically, the following guidelines apply:

- Written permission must be obtained to use copyrighted material (e.g., text, graphics, source code) on the Internet, and the user must maintain a copy of that permission for the duration of the use plus 3 years.
- Any media displayed on the Internet as part of a web page and accessible to persons outside the College community is considered to be a public performance except when determined to be a Fair Use.
- Importing information from another web site and displaying it in a frame requires permission from the web site owner.
- Inlining files (coding your website to refer directly to graphics on another's website) requires permission from the owner.
- Permission may not be required to link to another site; however, internal or deep linking that bypasses information the web site owner wants viewed (e.g., ownership information, advertising, etc.) requires permission. A site's existence on the Internet gives implied permission to link to that site; a URL is not copyright protected because it is considered a fact, like an address. The owner of a web site, however, has the right to demand that links to the site or specific pages be removed.
- A list of links created by someone else may be copyrighted under a compilation copyright; therefore, a list of links may not be copied in its entirety to an Internet site. A link, however, may be made to that list of links.

For more information about using Internet resources, please see the TEACH Act section of these Guidelines.

### **4.3 Sakai and the Use of Digital Materials for Instruction**

Instructors who use Sakai must comply with federal copyright laws, including the TEACH Act. The TEACH Act, which focuses primarily on online instruction and the electronic distribution of course materials, addresses the College's use of Sakai to support all instructional activities.

Sakai is utilized by faculty to supplement face-to-face teaching in many courses. ~~ANGEL~~ Sakai is also used as a primary resource in the administration and delivery of distance learning courses offered through the School of Continuing Education.

To highlight the importance of copyright compliance within Sakai, the following statement is automatically included on all course sites:

"All materials on this course web site are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated."

Instructors are encouraged to include this notice on their course syllabi and to emphasize its importance to their students.

### **4.4 Fair Use as it Relates to Sakai**

The fair use doctrine is technologically neutral. In determining if a use falls under the fair use doctrine, apply the same guidelines for face-to-face teaching to materials in a course that utilizes Sakai.

### **4.5 Instructor-Authored Materials**

Faculty may post online any materials they create, such as lecture notes, tests, exercises, problem sets, and PowerPoint presentations. Instructors should note that if material they authored has been published (e.g., in a journal), they may have transferred the copyright to the publisher. In that case, it may be necessary to obtain permission from the publisher to post the material.

### **4.6 Materials for Which Providence College Already Holds Permission**

Materials drawn from Providence College's licensed collections may be included in electronic reserves and course web sites without seeking further permission by linking to a persistent URL. Downloading and posting materials in electronic reserves and course web sites must adhere to the conditions set forth in the license agreement.

The Phillips Memorial Library + Commons will provide embedded links in Sakai to licensed library digital resources within specific courses upon request. For more detailed information please contact the Library's Access Services staff (401-865-1993) or visit the Library's web site.

### **4.7 Materials That Do Not Require Copyright Permission**

The following categories of material are not protected by the Copyright Act and may therefore be made available on electronic reserves or on course web sites without the permission of the copyright owner:

- Material that has entered the public domain because the copyright has expired. The rules for determining whether a work has entered the public domain are complicated. For more specific information, please see the section When do US Works Pass into the Public Domain?
- Works of the United States Government. By statute, U.S. Government works are not protected by copyright.
- Links to web sites. Anyone may freely reproduce the address of a web site to which readers may "hyperlink." The owner of the web site, however, may demand that the link be removed.
- Best practices suggest proper citation and notifying the web page provider. Individuals may link to online resources (sites, images, documents, etc.) that have been already lawfully posted.

#### **4.8 Use of Copyright-Protected Materials**

The copyright requirements for the TEACH Act and materials in a course using Sakai are similar to those of classroom handouts, but extend the traditional rules for those handouts to the digital transmission of materials. One of Sakai's most powerful features is its ability to support the uploading of files to the system. This feature permits students in courses, or members of groups, to access posted materials for nearly all types of files in digital format; however, when uploading copyright-protected content, use of this feature must comport with certain criteria.

Some of the most common file uploads are written works, PowerPoint presentations, images, audio recordings, video/DVD recordings, data sets, and course reserves. Guidelines for each of these categories follow.

##### **Written Works**

Written works (such as text works and musical scores) may be placed on electronic reserves or on course web sites for use in connection with course instruction as long as all of the following conditions are met:

1. The instructor is placing the work on electronic reserves or on a course web site for the first time. (If this is the second or subsequent term that the instructor seeks to place the work online, permission must be secured from the copyright holder.);
2. The amount and substantiality of the portion used in relation to the copyrighted work as a whole is reasonable;
3. A commercially available copy of the written work is owned by or licensed to Providence College, or the College has ordered a commercially available copy of the written work, or the written work is owned by the course instructor and the College has made a good faith effort to purchase a commercially available copy;

4. The materials are required readings for the course;
5. Online access to course materials is limited through authentication to class participants;
6. Access to the files is disabled at the completion of the course; and,
7. Storing course files for future use meets the conditions in Item #1 (i.e., permission is obtained from the copyright holder to post the material in second or subsequent terms).

### **PowerPoint Presentations**

Presentations that include images/pictures, video, music, or other multimedia must be copyright compliant. Use the guidelines in this section to inform decisions based on the content of the PowerPoint presentation (i.e., "Images," "Audio Recordings," "Video," "Data Sets").

### **Images**

Individuals may post to Sakai their own authored photographs or images. Images produced by others may be posted to a password-protected ANGEL course site so long as they are low-resolution (96 dpi or lower). For more information, see the Use of Visual Images section.

### **Audio Recordings**

Audio recordings of musical works may be placed on electronic reserves or on course web sites for use in connection with course instruction as long as all of the following conditions are met:

1. A commercially available copy of the audio recording is owned by or licensed to Providence College, or the College has ordered a commercially available copy of the audio recording, or a lawfully obtained copy of the audio recording is owned by the course instructor and the College has made a good faith effort to purchase a commercially available copy;
2. Entire works are made available only when they are being taught in the course and they are assigned to students for a specific class meeting. The number of entire works that may be digitized during an academic term shall not exceed the maximum number of works typically required for the course: approximately 30 hours. Excerpts, not entire copies, should be used when possible;
3. Online access to course materials is limited through authentication to class participants. Audio must be delivered in streaming format; and,
4. Access to the files is disabled at the completion of the course unless permission has been obtained from the copyright holder to post the material in second or subsequent terms.

### **Video/DVD Recordings**

Video/DVD recordings may be placed on electronic reserve or on course web sites for use in connection with course instruction as long as all of the following conditions are met:

1. A commercially available copy of the video/DVD is owned by or licensed to Providence College, or the College has ordered a commercially available copy of the video/DVD, or a



lawfully obtained copy of the video/DVD recording is owned by the course instructor and the College has made a good faith effort to purchase a commercially available copy;

2. Entire works are made available only when they are being taught in the course and they are assigned to students for a specific class meeting. The number of entire works that may be digitized during an academic term shall not exceed the maximum number of works typically required for the course: approximately 10 items or 20 hours. Excerpts, not entire copies, should be used when possible;

3. Online access to course materials is limited through authentication to class participants. Video must be delivered in streaming format; and

4. Access to the files is disabled at the completion of the course unless permission has been obtained from the copyright holder to post the material in second or subsequent terms.

### **Data Sets**

Faculty or students may include a reasonable portion (used in relation to the copyrighted work) of fields or cell entries, from a database or data table. A field entry is a specific item of information in a record of a database file. A cell entry is the intersection where a row and a column meet on a spreadsheet.

### **Course Reserves**

Please see the sections Reserves—Paper or Electronic and Licensed Databases, Electronic Journals and Electronic Books.

## **4.9 Student-Authored Materials**

Instructors must obtain written permission from students before posting student works on the Internet or in Sakai in future courses. Remember students own the copyright to their own work. Please see the Appendix for a sample permission request form.

## **4.10 Sakai and the Use of Digital Materials for Non-Instructional Purposes**

Sakai facilitates the work of scores of committees, groups, and student organizations. Copyright law is far more restrictive in the use of digital materials for non-instructional uses than it is for instructional uses. Individuals are advised to review published copyright restrictions regarding materials they wish to share with other members of a committee, group or student organization through Sakai. The Library provides access to many electronic resources that can be shared through Sakai by linking to the material. One copy of an item may be printed and made available in a central location.

## **4.11 Support for Faculty in Using Digital Resources**

Staff in the Instructional Technology Development Program (ITDP), Phillips Memorial Library + Commons, and Academic Media Services (AMS) play important consulting roles in ensuring copyright compliance for digital content and are available to assist faculty to develop copyright-compliant materials for their courses.

## **5. GUIDELINES FOR USING FILM, VIDEO/DVDs, IMAGES, AND MUSIC**

### **5.1 FILM**

#### **5.1.1 Use of Film and Video in Courses**

Mere possession of a film or video does not confer the right to show the work. The copyright owner specifies, at the time of purchase or rental, the circumstances under which a film or video may be performed. Copyright law allows for an exception to the copyright holder's exclusive right of performance; this face-to-face exception permits educators or students to perform works (including home-use video) in class, as long as all of the following criteria are met:

- The film or video is shown as part of the instructional program;
- The film or video is shown by students, instructors, or guest lecturers;
- The film or video is shown either in a classroom or other school location devoted to instruction such as a studio, workshop, library, gymnasium, or auditorium if it is used for instruction;
- The film or video is shown either in a face-to-face setting or where students and teacher(s) are in the same general area;
- The film or video is shown only to students and educators; and
- The film or video is shown using a legitimate copy with the copyright notice included. Further, the relationship between the film or video and the course must be explicit. Films or videos, even in a face-to-face classroom setting, may not be used for entertainment or recreation without the copyright holder's permission or license, whatever the work's intellectual content.

Section 1201 of the Digital Millennium Copyright Act of 1998 (DMCA) prohibits the circumvention of encryption on all digital media. It is a violation of the DMCA, for example, to make a digital copy of a DVD, because doing so would require breaking the copyright protection. In order to accommodate the fair use of audiovisual works, the Librarian of Congress created a narrow exemption to the DMCA for film and media studies professors who need to create compilations of portions of works stored in the department's media library for educational use in their classrooms. This exemption was renewed again in October 2012.

Academic Media Services (AMS) is permitted to show videos on the College's over-the-air cable television system only when the requestor has obtained a "public performance license." The showing of a movie will be considered to be a "public performance" if either of the following is true:

- The movie is shown to people other than family members or a small group of friends, or
- The movie is shown in a place that is open to people other than family members or a small group of friends (for example, a classroom, an auditorium, or McPhail's), whether or not any such people attend.

Currently, only college-owned videos purchased with public performance rights, along with specific commercial videos rented and licensed through the S.A.I.L. office, may be shown to the entire campus community.

Videos may be made available to students in specific courses via one or more of the following options:

1. Faculty may contact the Office of Enrollment Services to reserve an available classroom for special video showings. Instructors may choose to reserve individual videos to be viewed by their students exclusively. Contact AMS in advance of the scheduled showing if technical assistance is required.
2. Individual students who are unable to attend a scheduled showing may schedule a time to view specific videos in the library.
3. Faculty may direct their students to rent specific videos on their own, at individual expense, for their own private viewing.
4. Faculty may choose to show videos during scheduled class time.
5. Faculty or their departments/programs may purchase public performance licenses for each showing of a specific video if they wish to broadcast it to the entire campus community via the cable system.

### **5.1.2 Non-Course Use of Videos**

Performances or displays that are intended for viewing by the College community or unrelated to a specific course may require explicit permission for “public performance rights” from the copyright owner. For example, academic or administrative departments/programs or student groups that wish to sponsor non-course related films (including a film series) would need to obtain a public performance license for each showing. Performances or displays that include an admission fee may involve additional licensing requirements from the copyright owner. Please contact Academic Media Services for information and guidance.

#### **FILM SHOWINGS/SERIES**

For further information, please see Appendix D or visit the Library’s web site.

A public performance license (PPL) is not required for any film performance that meets all of the following conditions:

- Attendance is limited to students enrolled in courses or academic programs with a specific educational interest in the film and faculty who teach those courses or who teach in those programs. Further, the film showing is in a classroom or similar location for instruction;
- The film is part of a teaching activity; therefore, the film must be preceded or followed by a faculty-led discussion, as noted under the “extension of classroom” copyright provision, and this discussion forum has documented learning objectives or a specific lesson plan for all students in attendance;

- Advertisements/promotions for the film clearly note the intended audience;
- The copy of the film has been legitimately obtained (it cannot be recorded off air), or it came with an express license authorizing the particular manner of showing; and
- There are no admission fees.

Film showings/series may be co-sponsored by two or more academic departments/programs, and students affiliated with those departments/programs may be invited to the film showings/series, as long as all five of the above conditions are met.

A limited number of films and videos (e.g., those purchased through PBS or Films for the Humanities and Sciences) owned by the College include public performance rights. Please check with Academic Media Services to determine license status before planning a program.

### **5.1.3 Purchased, Rented, or Borrowed Films and Videos:**

Films or videos purchased, rented, or borrowed with the caveat "home use only" may be used in face-to-face teaching activities. Such films or videos may not be used as part of a public performance without the requisite license.

College facilities and equipment may not be used to show media that have not been legally obtained for classroom or public showings.

### **5.1.4 Producing Original Media**

Individuals who seek to create original media (e.g., audio or video compilation) must be aware of the following guidelines:

- Existing media may be incorporated into a work being produced by a faculty member for a class project or educational program. The borrowed material, however, may not constitute more than a reasonable amount of the original and may not comprise the majority or include the "essence of the original work" in the finished work without permission. "Essence of the original work" refers to the main point of action, such as the exploding of Mount Saint Helens volcano, a butterfly emerging from a chrysalis, or the closing scene in the film *Casablanca*.
- A video created from a compilation of several different videos, not including off-air recordings, may contain a portion of another video; however, it may only be used two times within ten days, after which copyright permission must be sought to reuse the video.

### **5.1.5 Copying or Converting Media for Scholarship and Research**

In general, it is legal for individuals to convert media they own, or that are owned by the College, to electronic form for individual scholarship or research. This includes scanning photos, drawings, or slides, typing or scanning text, or digital recording of audio materials.

It is not legal to convert film, video, or audio into another form (e.g., converting a copyrighted video to computer video format). It is acceptable to extract still images from a video, including

multiple still images that do not exceed a reasonable amount of the video and do not extract the essence of the work.

In an emergency, an audio or video recording may be duplicated to replace a purchased copy that is lost or damaged. A purchased replacement copy must be substituted for the lost or damaged audio or video recording in due course.

### **5.1.6 Video Recording Off-Air**

The Kastenmeir Guidelines permit off-air recording (i.e., transmitted via the public airwaves) of broadcast programming for educational purposes with certain provisions:

- Video recordings are shown to students only within the first 10 school days after the recording has occurred;
- The recordings are shown to students enrolled in a particular course no more than two times during the 10 school-day period and the second time only for necessary instructional reinforcement;
- After 10 calendar days, video recordings may be viewed only by instructors and their peers for evaluation purposes to determine whether to include the broadcast program in future curriculum;
- Video recordings may be kept for no more than 45 calendar days after the recording date, at which time the recordings must be erased, destroyed, or licensed;
- Off-air recordings by staff must be made only at the request of an individual instructor for instructional purposes, not by staff in anticipation of later requests;
- If several instructors request video recordings of the same program, duplicate copies are permitted to meet the need; all copies are subject to the same restrictions as the original recording;
- The off-air recordings may not be physically or electronically altered or combined with others to form anthologies, but they need not be used or shown in their entirety; and
- All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.

If all of the above conditions cannot be met and the recording is not available for purchase, an instructor who wishes to show it to students as part of face-to-face instruction may contact the Office of General Counsel to discuss whether the recording may be shown under the Fair Use Guidelines or whether specific permission is required.

Programs distributed via cable and not available as off-air signals (transmitted via the public airwaves) and considered “premium” or “pay” channels (HBO, Cinemax, Food Channel, A&E, History, Discovery, etc.) are not subject to the Kastenmeir Guidelines, must be licensed for public re-broadcasting, and cannot be duplicated or distributed without proper prior permission and/or paying a fee.

## 5.2 IMAGES

### 5.2.1 Use of Visual Images

A "visual image" is a unique photographic representation of an object (e.g., an "original" 35mm slide) or a photographic reproduction of an object ("duplicate" slide). The term "visual image" is used here to refer to representations or reproductions of works of art (e.g., painting, sculpture, decorative or craft objects, graphics media, drawings, collages, mixed media, and electronic media) and architecture, and also includes maps, diagrams, charts, and scientific drawings. Images are typically surrogates for the represented works; their intrinsic value is primarily as documentation of the original object (e.g., a slide representation of the Mona Lisa, a photograph of the Eiffel Tower, a color reproduction of an anatomical chart).

Visual images made from reproductions in books and journals for purposes such as teaching or research are considered to be Fair Use only when photographic representations of the objects are no longer available or reasonably accessible from commercial vendors, the object's creator, or the owner of the work.

The Visual Resources Association (VRA) has published guidelines that are available online at <http://vraweb.org/resources/ipr-and-opyright/>.

The VRA guidelines recognize that certain educational disciplines, in particular art and architecture, are dependent upon visual images for teaching purposes. The guidelines try to strike a balance between the rights and concerns of copyright owners (i.e., artists, museums, galleries, vendors and other image providers), and users by acknowledging public domain rights and educational exemptions such as Fair Use.

When a college or university desires to develop a permanent archive of visual images (e.g., Art & Art History Department Visual Resource Center image collection), the VRA suggests purchasing, licensing or otherwise legally acquiring slides or digital files from museums, galleries, vendors and other image providers. Other sources may include original on-site photography produced for sale by skilled photographers, and digital files distributed on a freedom-to-use basis by educational and professional institutions. Images purchased or licensed are subject to the conditions specified at the time of purchase or according to the licensing agreement. Gifts and donations may be subject to further restrictions imposed by the donors. Donors of original photographic images should be encouraged to grant in writing to the institution discretionary rights regarding use of the image, including digitizing.

The Artists Rights Society (<http://www.arsny.com/>) is the primary organization for obtaining copyright permission for works of visual art.

### 5.2.2 Use of Copystand Photography

A "copystand" is equipment designed to hold and illuminate an object (two- or three-dimensional) for the purpose of photographic reproduction. The term "copystand photography" is used here to refer to the standard practice of photographic reproduction from published materials for educational purposes, generally accomplished with the aid of copystand equipment. To the extent the permanent archive contains material created by copystand

photography or scanning from published materials, the following conditions should be met before placing the images in the permanent archive. Meeting these conditions will provide support for the argument that the use of the images is a Fair Use under copyright law. The considerations are as follows:

- Images of suitable quality are not readily available at a reasonable cost and in a reasonable time from a museum, gallery, vendor or other image provider;
- Images will not be shared between or among other educational institutions if such use is prohibited by the terms of their acquisition;
- Images will be used for comment, criticism, review, analysis, discussion, or other similar purpose associated with instruction or scholarship;
- Images will be used for purposes that are both nonprofit and educational; and
- Images will be placed on a restricted-access web site.

These restrictions do not apply to images that are in the public domain. To the extent possible, the VRA recommends that all images acquired for the permanent archive of an educational institution be identified by source of image, year of acquisition, and in the case of a purchased or licensed image, the provider's inventory or identifying number or code.

## **5.3 MUSIC**

### **5.3.1 Photocopying Sheet Music for Educational Purposes**

A single copy of the entirety of an individual's (faculty or student) privately-owned sheet music may be used in the classroom. Multiple copies for classroom (non-performance) use may comprise excerpts of ~~no more than 10%~~ of a whole work and may not constitute a performable unit. For a performance, emergency copying is permitted so long as replacement copies are subsequently purchased. Single copies for personal or library reserve use (academic purposes other than performance) are permitted for an entire performable unit (section, movement, aria, etc.) if the unit is out of print or available only in a larger work.

### **5.3.2 Copying Sound Recordings**

#### **Non-Music Recordings**

Audio cassettes or CDs may not be copied unless replacement recordings from a commercial source cannot be obtained at a fair price. Recording brief excerpts may be permissible under the Fair Use doctrine.

#### **Music Recordings**

A single copy from sound recordings owned by Providence College or an individual faculty member may be made and retained for the purposes of face-to-face teaching, constructing aural

exercises or examinations, or scholarly research and critique. Otherwise, the restrictions on copying non-music recordings apply.

The College may create up to three copies (an archival copy, a master copy, and a use copy) of an unpublished musical sound recording currently in one of its collections for the purposes of face-to-face teaching, preservation, and security.

The College may create up to three copies of a published musical sound recording under the following circumstances if an unused replacement cannot be obtained at a fair price: to replace a recording that is damaged, lost, deteriorating, or stolen; or if the format of the recording has become obsolete.

### **5.3.3 Performance**

The U.S. Copyright Office states that “to perform a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.”

#### **In the Classroom**

Permissible performances of copyright-protected works include the following:

- Performance of a work by instructors or students in the course of teaching activities in a classroom or other place devoted to instruction, if the copy was lawfully obtained (in compliance with copyright law);
- Performance of a non-dramatic literary work or musical if the performance is directly related to the course content and the performance occurs in a space devoted to instruction;
- Performance of a non-dramatic literary work, musical work or of a dramatic-musical work of a religious nature in the course of religious services; and,
- Performance of a non-dramatic literary work or music without any commercial purpose and without payment to any performers, promoters or organizers if no admission is charged or if the proceeds are used exclusively for educational, religious, or charitable purposes.

### **5.3.4 Public Performance**

Unless licensed, the public performance of dramatic literary or musical works, whether or not for educational purposes, is a copyright infringement unless the work is in the public domain. Public performance is defined as:

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or



(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

Providence College has blanket license agreements with the three main performing rights organizations (ASCAP, BMI and SESAC) to allow public performances of thousands of musical works. The Office of the Vice President for Academic Affairs funds and maintains the College's license agreements with these organizations. For more information about these performance licensing organizations, please visit their web sites:

- ASCAP <http://www.ascap.com/>
- SESAC <http://www.sesac.com/>
- BMI <http://www.bmi.com/>

### **5.3.5 The Use of Pre-recorded Music in Video Production**

Copyrighted music may be used only if a "video synchronization license" is purchased from the music publisher or owner of the copyright. For those seeking to add music to a video production, and the music is not in the public domain, there are web sites that make music available for use in a non-commercial production under a Creative Commons license.

### **5.3.6 Other Issues**

Other issues related to the copying of music include recording copyrighted works in any format (e.g., phonograph records, cassettes, audio CDs, MP3s), preparing derivative works, distributing copyrighted music, and performing musical works. In general, it is not an infringement if:

- The playback or performance is done in face-to-face teaching;
- The playback or performance of the work is on closed-circuit television to other classrooms or to students with disabilities for teaching purposes only; and
- There is no direct or indirect commercial advantage, including no fees paid to performers and no admission charge.

## **6. HOW TO OBTAIN COPYRIGHT PERMISSION**

Permission to use copyright-protected materials, when required, should be obtained prior to using those materials. It is best to obtain permission in writing (via letter or email). All documentation—the permission request and the response—should be retained in a departmental file for as long as the material is used plus 3 years. For more information about obtaining copyright permission, <http://fairuse.stanford.edu/overview/introduction/getting-permission/>

The time to obtain permission may vary, and, where possible, the process of obtaining permission should begin well in advance of the time that the materials are needed. If prompt

permission is needed, kindly inform the copyright owner and ask for timely consideration of your request.

The Copyright Office of the Library of Congress - <http://copyright.gov/> - may be of assistance in locating a copyright owner if the work is registered. Note, however, that copyright is automatically granted to all works when fixed in a tangible medium and that registration with the Copyright Office is not required.

### **6.1 Information to Include in a Permission Request**

The copyright holder or its agent may require the following information in order to determine whether to grant permission to the requestor:

- Title of the material
- Creator/author of the material
- Publisher of the material
- Description of material
- ISBN or ISSN, if applicable
- Date of publication, if applicable
- Purpose for which user wishes to reproduce the item (e.g., educational, research, commercial)
- How the material is to be reproduced (e.g., photocopied, digitized)
- Where the reproduced material will be used or will appear and for how long

A sample "Request for Copyright Permission" letter is available on the Phillips Memorial Library+ Commons' web site and in the Appendix of these Guidelines.

Individuals also may seek copyright permission for use of printed materials through the Copyright Clearance Center (<http://www.copyright.com>).

### **6.2 Seeking Copyright Permission for Online Use of Course Materials**

- Records pertaining to requests for permission should be maintained for the duration of the use plus 3 years.
- If the copyright owner (or agent) denies permission, or conditions permission on unacceptable royalty rates, the material cannot be placed online for course reserves or in a course web site; if the material has already been placed online, it should be removed immediately. Print copies, for items that have been removed, may be made available at the reserve desk depending on permission and royalty rates.
- If the copyright owner (or agent) does not reply to the request within a reasonable time, a follow-up request should be made, if time allows. If time does not allow, or if there is no reply

to the follow-up, the materials may be made available online provided that each item is accompanied by a notice stating that the material may be protected by copyright and shall not be further reproduced without checking its copyright status. The following text may be used: "This material is for private study, scholarship and research, and any further distribution may violate copyright law."

- The foregoing procedures may be used in successive years, provided that a new request for permission is made in each successive year or when permission has expired.

If the use is spontaneous (i.e., at the instance and inspiration of the individual teacher; and the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission) and will not be repeated, copyright permission is not required; however, the content may not remain posted for extended periods of time. If the use is planned, repeated or involves works that have existed long enough that one could reasonably expect to receive a response to a request for copyright permission, permission is necessary prior to use.

### **Student-Authored Materials**

Instructors may wish to incorporate works (for example, images, audio/video files, research papers) created by current or former students in their courses. It is required that instructors seek written consent from students to be able to post student works on the Internet or in **ANGEL Sakai** in future courses. Copies of consent authorizations should be maintained in the departmental files for as long as the work is used plus 3 years. See sample form in Appendix C or visit the Library's web site.

## **7. RESOURCES FOR ANSWERS TO COPYRIGHT QUESTIONS**

### **7.4 Providence College Offices and Departments**

The Phillips Memorial Library + Commons' web site provides links to a rich set of resources focused on copyright law and higher education at <http://www.providence.edu/library/research/Pages/Copyright.aspx>

In addition to reviewing materials referenced at this web site and included in these Guidelines, individuals should contact any of the following departments for assistance as necessary:

Office/Department	Phone	Copyright Issue
Academic Affairs	865-2195	Public performance licensing for academic programs ASCAP/BMI/SESAC music licensing
Academic Media Services	865-2118	Video & graphics; multimedia viewing and production

Copy Center	865-2436	Photocopying of print material and graphics
Information Technology	865-2345	Computer usage; Internet; web pages; software licensing
Instructional Technology Development Program	865-1832	Use of copyrighted resources in instruction; Sakai
Office of General Counsel	865-2574	Legal questions regarding copyright law
Phillips Memorial Library + Commons	865-1992 865-2582	Course reserves; photocopying Interlibrary loan Sample request for Copyright permission letter

## 8. ACKNOWLEDGEMENTS

Providence College acknowledges the following institutions and organizations which granted the College permission to use materials on copyright: Association of Research Libraries (ARL – "Know Your Copy Rights" brochure), Catholic University, Copyright Clearance Center, Dartmouth College, Indiana University Purdue University Indianapolis (IUPUI), LeMoyne College, North Carolina State University (TEACH Act Tool Kit), Simmons College, University of North Carolina @ Chapel Hill, the Rhode Island School of Design, and Wellesley College.

## 9. APPENDICES

### 9.1 Appendix A: External Copyright-Related Resources

The following external resources are recommended to members of the College community who are interested in learning more about copyright:

Copyright Clearance Center  
<http://www.copyright.com/>

The Campus Guide to Copyright Compliance for Academic Institutions  
<http://www.copyright.com/Services/copyrightoncampus/>

The TEACH Act  
<http://www.copyright.com/media/pdfs/CR-Teach-Act.pdf>

Using Electronic Reserves  
<http://www.copyright.com/media/pdfs/Using-Electronic-Reserves.pdf>

Using Course Management Systems  
<http://www.copyright.com/media/pdfs/Using-Course-Management-Systems.pdf>

## Glossary

<http://www.copyright.com/content/cc3/en/tools/glossary.html>

## Campus Copyright Rights & Responsibilities: A Basic Guide to Policy Considerations (AAU)

<http://www.aau.edu/workarea/downloadasset.aspx?id=6830>

## Copyright Law of the United States (Copyright Act of 1976 and amendments), United States Copyright Office

<http://www.copyright.gov/title17/>

## Section 106: Exclusive rights in copyrighted works

<http://www.copyright.gov/title17/92chap1.html#106>

## Section 107: Fair Use

<http://www.copyright.gov/title17/92chap1.html#107>

## Section 108: Reproduction by libraries and archives

<http://www.copyright.gov/title17/92chap1.html#108>

## Section 110: Exemption of certain performances and displays (classroom exemption provision)

<http://www.copyright.gov/title17/92chap1.html#110>

## American Library Association: Copyright Issues

<http://www.ala.org/advocacy/copyright>

## The TEACH Toolkit, North Carolina State University Libraries

<http://www.provost.ncsu.edu/copyright/toolkit/>

## Visual Resources Association Image Collection Guidelines

<http://vraweb.org/resources/ipr-and-copyright/>

## Copy Photography Compuator

<http://dirc.vraweb.org/>

## Artists Rights Society

<http://www.arsny.com/>

## RISD Copyright Guidelines for Exhibiting Movies and other Audiovisual Works

<http://intranet.risd.edu/pdfs/CopyrightMovies.pdf>

## CONTU Guidelines on Photocopying under Interlibrary Loan Arrangements, National Commission on New Technological Uses of Copyright Works (CONTU), Final Report, pg.54-55

<http://old.cni.org/docs/infopols/contu.html>

## Copyright & Fair Use, Stanford University Libraries

<http://fairuse.stanford.edu/>

## Association of Research Libraries (ARL) Copyright and Intellectual Property

[http://www.arl.org/focus-areas/copyright-ip#.VlxQcyvF8\\_o](http://www.arl.org/focus-areas/copyright-ip#.VlxQcyvF8_o)

## Applying Fair Use in the Development of Electronic Reserves Systems

<http://www.arl.org/pp/ppcopyright/copyresources/applying.shtml>

Know Your Copy Rights

<http://www.knowyourcopyrights.org/>

Digital Millennium Copyright Act [PDF] (1998), United States Copyright Office

<http://www.copyright.gov/legislation/hr2281.pdf>

Reproduction of Copyrighted Works by Educators and Librarians [PDF] (Circular 21), United States Copyright Office

<http://www.copyright.gov/circs/circ21.pdf>

Creative Commons

<http://creativecommons.org/>

The print version of the Providence College Copyright Compliance Policy and Guidelines has been most recently published in November 2008. Modifications to these Guidelines will be made as necessary; therefore, please consult the electronic version for the most current document on the Providence College web site at:

[http://www.providence.edu/library/research/Documents/Copyright\\_Compliance\\_Policy\\_dec2008.pdf](http://www.providence.edu/library/research/Documents/Copyright_Compliance_Policy_dec2008.pdf)

## **9.2 APPENDIX B: DEFINITIONS**

### **Face-to-Face Teaching**

Where referenced in the Providence College Copyright Compliance Guidelines, Face-to-Face Teaching is defined as an educator engaged in an instructional activity. The activity must take place in a classroom, must be part of systematic instruction, and the course must be comprised of registered students and assigned faculty.

### **Distance Learning**

Distance-Learning teaching is defined as an educator engaged in an instructional activity with students who are not physically on campus. Registered students receive instruction via a password-protected web site. Assigned faculty teach both asynchronously and synchronously using the tools of the web site.

### **Hybrid or Blended Learning**

Hybrid learning is defined as the blending of traditional face-to-face classroom instruction with a supplemental online component. Registered students interact with the assigned faculty through a password-protected web site.

The use of Sakai to support face-to-face teaching at Providence College is an example of hybrid or blended learning.

### **Broadcast Television**

A television system where programs are distributed to users via wireless (public air-waves) transmission. In the US, Channels 2 to 13 are called VHF channels and Channels 14 - 69 are called UHF.

### **Cable Television**

A transmission system which captures and distributes broadcast television signals and other services by means of coaxial cable. Residential cable subscribers are connected by means of

cable to a central community antenna (CATV), which picks up open air and signals from satellites for community distribution.

**Copystand**

A "copystand" is equipment designed to hold and illuminate an object (two- or three-dimensional) for the purpose of photographic reproduction. The term "copystand photography" is used here to refer to the standard practice of photographic reproduction from published materials for educational purposes, generally accomplished with the aid of copystand equipment.

### 9.3 APPENDIX C: PERMISSION FORMS

#### Sample Request for Copyright Permission Letter

Send with a self-addressed stamped envelope to the Copyright Permissions Department of the pertinent publisher.

Publisher name

Publisher address

Dear Copyright Permissions Editor,  
I request your permission to (include all that apply)  
reprint

- photocopy
- place on library reserve
- quote from
- duplicate
- incorporate into:
- multimedia courseware
- online course materials
- a dissertation/thesis
- a print publication
- other (specify)

the following material:

Author/Creator:

Book Title:

Journal Title:

Volume:

Issue:

Date(s):

ISSN/ISBN:

Page(s):

Figure(s)/Image(s):

Table(s):

Title of item (e.g., song, poem, audio or video recording, multimedia item, etc.)

Date

ISSN/ISBN or other identifier

The material will be used/distributed as follows

Use/distribution:

Pertinent publisher if applicable:

Expected distribution/publication date(s):

Expected length (size) of resulting work or product (number of pages, images, etc.)

Expected title of resulting work or product

Target market:

If you do not solely control copyright in the requested materials, I would appreciate any information you can provide about others to whom I should write, including most recent addresses if possible.

Please initial any statement which applies:



I have the authority to grant the requested copyright permission.  
I am the sole owner of the work for which copyright permission is requested.

Sincerely,

(your signature, affiliation, and contacts)

**Copyright Permission Form for the Use of Student Work**

Providence College

Copyright Permission Form for Student Works

U.S. Copyright Law provides for copyright protection for any work by the author/creator of that work, including students. Use of a student's work, including but not limited to research papers, images of artwork, and recorded performances, requires written permission from the student-author/creator in advance of any use of the work.

I, \_\_\_\_\_  
(Please print full name)

\_\_\_\_\_  
(Print permanent street, city, state, zip address)

\_\_\_\_\_  
(Print telephone number and e-mail address)

hereby grant permission for Providence College to use my work titled and/or described as follows (Title and/or brief description of the work):

\_\_\_\_\_  
\_\_\_\_\_

for educational purposes, including to promote the College to members of the College community and others via the web site, print media such as brochures and the College Catalog, and digital media.

I understand that by granting permission, I retain ownership of all copyrights to my work. I understand that it may not be possible and practical for the use of my work to include proper attribution, but that where possible and practical, proper attribution will accompany the use. I understand that permission will exist indefinitely unless I revoke that permission in writing. I understand that I may revoke my permission at any time, but that if I revoke my permission I understand that the College may need, depending on the circumstances of the use, a reasonable amount of time to end the usage of my work.

\_\_\_\_\_  
(Student's signature)

---

(Date signed) (Anticipated graduation year)

## **9.4 APPENDIX D: COPYRIGHT GUIDELINES FOR EXHIBITING MOVIES AND OTHER AUDIOVISUAL WORKS**

(The materials that follow were originally prepared by Steven McDonald, General Counsel at RISD, and, with some alteration, are reprinted with his permission.)

When you buy, rent, or borrow a DVD or videotape of a movie (or any other audiovisual work) made by someone else, you normally obtain only the copy, and not the underlying copyright rights to the movie. You certainly are free to watch the movie yourself, but, beyond that, your rights are quite limited by law. In particular, you do not have the right to show the movie to “the public.” In most cases, doing that requires a “public performance” license (“PPL”) from the copyright owner.

To determine whether you need a “PPL,” you must determine whether what you want to do would constitute a “public performance,” and, if so, whether there are any exceptions that would allow you to proceed nevertheless without a license. A flowchart summarizing the decision-making process in very general terms appears at the end of these guidelines; it should be used in conjunction with these guidelines.

### **1. Is it a “public performance”?**

The showing of a movie will be considered to be a “public performance” if either of the following is true:

- You will be showing the movie to people other than members of your family or a small group of your friends.
- You will be showing the movie in a place that is open to people other than members of your family or a small group of your friends (for example, a classroom, an auditorium, or McPhail’s) whether or not any such people attend.

Generally speaking, then, showing a movie in your home or residence hall room will not constitute a public performance as long as you limit attendance to family and friends. Most other showings will constitute public performances.

### **2. Is there an applicable exception to the license requirement?**

Even if your proposed showing will constitute a “public performance,” you still will not need to obtain a license if any of the following is true:

- You will be showing the movie in the course of "face-to-face teaching activities" in a classroom or similar place devoted to instruction (that is, not in an auditorium or other public venue, unless it is being used for, and restricted to participants in, the teaching activities), and you have a legitimate copy of the movie (which, in general, does not include one that you have videotaped yourself from a broadcast).
- Your copy of the movie came with an express license authorizing the particular manner of showing. (For example, some educational movies, such as those purchased directly from California Newsreel at the "institutional" price, come with licenses to show the movies for certain non-commercial institutional purposes.)
- The movie you wish to show is in the "public domain." (Determining whether a particular movie is in the public domain can be difficult, and even movies that are quite old can still be protected by copyright. The Public Domain Movie Database publishes a list of movies it believes to be in the public domain, but it is neither complete nor authoritative.)

Please note that there is no general "educational," "nonprofit," or "free of charge" exception. Even a showing that is all three of those things will require a license if it constitutes a "public performance" and does not fall within one of the exceptions listed above. Thus, most showings outside of the class context will require licenses.

If you do need a "public performance" license, you can obtain one in either of the following ways:

- By renting the movie directly from a distributor that is authorized to grant such licenses, such as Swank Motion Pictures, Inc., rather than from a video store.
- By contacting the copyright holder (generally the studio) directly.

In most cases, you will be eligible for a "non-theatrical" public performance license, which is considerably cheaper than what a commercial cinema must pay. Still, the cost is likely to be at least several hundred dollars, especially for the most recent movies. That may seem unreasonable, but keep in mind that inability or unwillingness to pay is not a valid defense to a copyright infringement lawsuit.