Copyright Policy	**BOT Approved:** July 16, 2019

Table of Contents

PURPOSE: 1
POLICY: 1
PROCEDURES: 2
- **COPYRIGHT COMPLIANCE** 2
- **EDUCATION** 2
- **FAIR USE DOCTRINE** 2
- **PROHIBITIONS:** 3
- **FAIR USE GUIDELINES** 4
- **CONTACT** 4

PURPOSE:

The purpose of this policy is to help advise the Garrett College (the "College") community of copyright compliance issues and their rights and responsibilities under the copyright law. The policy outlined in this document is intended to insure that institutional practices at Garrett College conform to the U.S. Federal Copyright Law (Title 17 U.S. Code) including amendments and the Technology, Education, and Copyright Harmonization (TEACH) Act.

POLICY:

It is the policy of Garrett College that all members of the College community must comply with U.S. Copyright Law. Any unauthorized distribution of copyrighted material, including unauthorized peer-to-peer file sharing, may subject violators to civil and criminal liabilities. The exclusive rights of a copyright owner shall not be willingly or knowingly infringed by the College or any members of the College community. The rights of educators and students in fair use of copyrighted materials shall be conducted through a reasoned application of the copyright law. Responsibility for the use of copyrighted material and liability for any instances of copyright infringement lies solely with the user and not with the College or any of its employees or representatives. The College will make concerted efforts to educate the College community of their responsibilities related to copyright compliance.

PROCEDURES:

COPYRIGHT COMPLIANCE

All members of the College community are responsible for complying with the requirements of copyright law, including obtaining required permissions, and complying with College guidelines regarding the legal use of copyrighted materials, regardless of the format of the material or the purpose of that use. Members of the College community who willfully disregard copyright law and College policy do so at their own risk and assume any liability and are subject to appropriate disciplinary action as outlined for students in the Student Code of Conduct, and for employees in the Human Resources Manual.

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.

EDUCATION

To support members of the College community with understanding copyright compliance, the Library & Learning Commons offers assistance and guidelines addressing copyright and fair use. More information can be found at https://garrettcollege.libguides.com/gclibrary.

FAIR USE DOCTRINE

Faculty and staff are permitted to use and duplicate copyrighted materials of other parties for educational and classroom uses provided such activities are within the fair use standard, a statutory provision(17 U. S. C. section 107) which provides that certain uses of a copyrighted work that might otherwise be in violation of the copyright provisions, are not an infringement. The fair use standard requires evaluation by College faculty, and other members of the College community, of the following factors to determine if duplication or use by a third party qualifies as fair use:

- **The purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes**.

  Non-profit educational uses, such as duplication for classroom purposes rather than commercial uses, and without a charge to the user, tend to support a finding of fair use.

- **Nature of the copyrighted work.**

  Published factual works, such as reference works, scientific articles, encyclopedias, or other factual works, by their nature more readily support a finding of fair use than do unpublished works or non-factual, fictional, or creative works, such as musical compositions, novels and films.

- **Amount and substantiality of the portion used in relation to the copyrighted work as a whole.**

  If the portion of the work copied or used in relation to the entire work is quantitatively and qualitatively insignificant, it is more inclined to favor fair use. Copying of a portion of a work may be found to be other than a fair use if the portion constitutes the essence or critical part of the copied or used work.

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

  Use of a copyrighted work that is not detrimental to and does not diminish the potential market for the work or cause economic harm to the owner of the work, will favor a finding of fair use.

Faculty, and other members of the College community, are expected to request permissions in writing from the copyright holder when, after evaluating the copyrighted material for all four fair use standards, the material falls within excess of legal limitations and is a questionable fair use exemption. Publishers generally have established copyright clearance offices and standard practices to allow for educational uses. Sample permission request forms are available at the Garrett College Library.

PROHIBITIONS:

The following activities generally will not, per se, constitute fair use and should not be engaged in by College faculty, or other members of the College community, without consultation and permission from the copyright owner:

- Duplication of materials for profit.
- Duplication of material from published textbooks.
- Duplication of unpublished materials.
- Duplication of the same materials for classroom use term after term.

- Copying to create, replace or substitute for anthologies, compilations or creative works.
- Copying of or from workbooks, exercises, standardized tests, answer sheets or other consumable works in the course of teaching.
- Copying without including the copyright notice appearing on printed copy.
- Charging a student beyond actual copying cost.
- Duplication of computer software for multiple uses.
- Changing the format of a recorded work if circumvention of technological restrictions on the original work is necessary to make a new copy, or if an existing license prohibits such activity, or if the desired alternate format for the work is legally available for purchase.

FAIR USE GUIDELINES

Fair use analysis can sometimes be difficult to determine, therefore, organizations representing educational institutions, authors and publishers developed an *Agreement On Guidelines For Classroom Copying In Not-For-Profit Educational Institutions With Respect To Books And Periodicals*; representatives of music publishers and music teachers developed *Guidelines For The Educational Uses Of Music*; and representatives of educational institutions, copyright proprietor and creative guilds developed *Guidelines For Off-Air Recording of Broadcast Programming For Educational Purposes.* These three guidelines provide a source for consideration with regard to fair use, in that any copying or use within these guidelines probably would favor a determination of fair use.

It is important to note that guidelines are not included in the copyright law and therefore do not have the force or effect of law. A reasoned and careful analysis of the four factors for fair use should still the primary analysis for consideration of fair use. A copy of Fair Use Guidelines is available from the Library Director at Garrett College.

CONTACT

For answers to questions concerning copyright and fair use, contact the **Library Director at reference@garrettcollege.edu.** Questions regarding software licensing should be referred to the **Help Desk at 301-387-3027 (or e-mail helpdesk@garrettcollege.edu)**

NOTE: This policy was derived from information contained in the following publications:

- **American Library Association publication –Complete Copyright: An Everyday Guide for Librarians by Carrie Russell Creative Commons Deed License 2004.**
- **The Association of Research Libraries Publication Know Your Copyrights**

  © 2007.