

TEXAS STATE TECHNICAL COLLEGE
STATEWIDE OPERATING STANDARD

No. ES 2.11	Page 1 of 5	Effective Date: 7/18/2019
DIVISION:	Educational Services	
SUBJECT:	Copyright Compliance	
AUTHORITY:	United States Code, Title 17, Copyright Law	
PROPOSED BY:	Jeff Kilgore	
TITLE:	Vice Chancellor & Chief Academic Officer	Date: 7/18/2019
RECOMMENDED BY:	Jeff Kilgore	
TITLE:	Vice Chancellor & Chief Academic Officer	Date: 7/18/2019
APPROVED BY:	Mike Reeser	
TITLE:	Chancellor	Date: 7/18/2019

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I. STATEWIDE STANDARD

COMPLIANCE: Texas State Technical College (TSTC) shall comply with all applicable federal, state, and local laws on copyright issues.

II. PERTINENT INFORMATION

[Title 17 of the U.S. Code](#) contains all copyright law in the United States and preempts all previous copyright law including state copyright laws insofar as they conflict with Title 17.

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

With the passage of the [Digital Millennium Copyright Act \(DMCA\) of 1998](#), Title 17 of the U.S. Code was amended to extend the reach of copyright to digital media, while limiting the liability of online providers from copyright infringement by their users. The DMCA requires nonprofit educational institutions to:

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

The [Technology, Education, and Copyright Harmonization Act of 2002](#), known as the TEACH Act, further amended Title 17. The TEACH Act clarified what uses of copyrighted material are permissible with regard to distance education and outlines the requirements information technology staff and students of a higher education institution must follow in order to be in compliance with the TEACH Act. Specifically, educational institutions must:

1. Publicize the institution’s copyright policy and provide informative resources;
2. Utilize legally acquired copies;
3. Utilize technological measures that reasonably prevent recipients from retaining copyrighted works beyond the classroom session and prevent further distribution of them;
4. Use the digital version if commercially available (changing an analog version to digital is prohibited);
5. Provide notice to students that materials used in connection with the course may be subject to copyright protection;
6. Provide access to copyrighted materials only to those students currently enrolled in the course; and
7. Prohibit the improper transmission of textbook materials, i.e., materials typically purchased or acquired by students, or works developed specifically for online uses.

III. GENERAL GUIDELINES

This Statewide Operating Standard (SOS) shall outline the procedures and processes necessary to comply with all applicable copyright laws.

IV. DEFINITIONS

Exclusive Rights: Rights reserved to the owner of a copyright. As established by [17 U.S. Code, Section 106. Exclusive rights in copyrighted works](#), the owner of a copyright has exclusive rights as follows:

1. To reproduce the copyrighted work in copies or phonorecords;
2. To prepare derivative works based upon the copyrighted work;
3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

Certain exceptions to exclusive rights such as “Fair Use” and “Performance and Displays” in face-to-face teaching and distance education are allowed under [17 U.S. Code, Section 106. Exclusive rights in copyrighted works](#).

Fair Use: The use of a copyrighted work including reproductions in various media for purposes such as teaching (including multiple copies for class use), scholarship, or research that is not an infringement of copyright. The following criteria are applied in determining fair use:

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and importance 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.

V. DELEGATION OF AUTHORITY

The Chancellor, or his/her designee, shall assign appropriate staff to ensure the provisions of this SOS are implemented with established and documented procedures.

VI. PERFORMANCE STANDARDS

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

APPENDIX

VII. RELATED STATEWIDE STANDARDS. LEGAL CITATIONS, OR SUPPORTING DOCUMENTS

[Copyright Law of the United State, Title 17 U.S. Code](#)
[17 U.S. Code, Section 106. Exclusive rights in copyrighted works](#)
[Digital Millennium Copyright Act \(DMCA\) of 1998](#)
[Technology, Education, and Copyright Harmonization Act of 2002 - General Explanation](#)

VIII. OPERATING REQUIREMENTS

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