

## **COPYRIGHT POLICY**

### **Emmanuel College**

#### ***Defining Copyright***

Copyright law protects intellectual property and the rights of the author. Copyright also assures academic access and the free exchange of ideas. It is the policy of Emmanuel College to comply with the United States Copyright Act of 1976, as amended (Title 17 U.S. Code) and the Digital Millennium Copyright Act of 1998 (DMCA). The Berne Convention Act of 1988 qualifies all authored works as being copyrighted and does not require display of the familiar copyright notice. Works distributed after March 1, 1989 do not require a formal copyright notice to be protected. As a result, it is necessary to assume that copyright laws protect all works unless they are exempted by “fair use” or are defined as within the public domain.

#### ***Individual Responsibility***

Members of the campus community are advised to become as knowledgeable as possible regarding copyright and fair use as it pertains to their discipline. “Copyright Office Basics”, a circular of the U.S. Copyright Office, is available at: <http://www.copyright.gov/circs/circ1.pdf>. The complete version of the U.S. Copyright Law, October 2007 is available at: <http://www.copyright.gov/title17/>

Copyright infringement is a violation of both law and College policy and Emmanuel College does not accept legal responsibility for copyright infringement by individual members of the community. Individuals who willfully disregard College policy and guidelines do so at their own risk and assume all liability.

### **Procedures Governing Use of Copyrighted Materials for Teaching**

Faculty and staff are expected to adhere to copyright policy and guidelines when using teaching materials including: duplication and printing; course packets sold to students; and classroom handouts. When permission to copy or use is necessary, the user must obtain written permission from the copyright holder before material can be reproduced or used.

Although Emmanuel College encourages its faculty and staff to engage in a wide variety of activities related to education, it respects the legal right to intellectual and creative property in all media. Such educational activities must therefore be performed within the bounds of copyright law. The making of either a paper or electronic copy of a copyrighted work constitutes reproduction that is governed by the copyright law. The College does not support unauthorized duplication in any form.

### ***Fair use***

Emmanuel College supports the full exercise of the rights accorded to users of copyrighted works under the “fair use” provisions of the federal copyright law, which expressly provide that certain uses of copyrighted works for teaching, scholarship and research, including multiple copies for classroom use, are not an infringement. It must be remembered, however, that the law of fair use does not allow free use of copyrighted materials in all instances. The password-protected classroom environment created with Blackboard Vista offers the same fair use opportunities and limitations as the face-to-face class.

To aid compliance, the College will:

1. Inform and educate the Emmanuel community about fair use and the application of the four fair use factors as set forth in U. S. Copyright Law (Title 17, U S Code Sect. 107, et seq.) and as interpreted in applicable case law.

The four fair use factors are:

- a. The character and purpose of the proposed use.
  - b. The nature of the copyrighted work to be used.
  - c. The amount and substantiality of the portion to be used in relation to the copyrighted work as a whole.
  - d. The effect on the market or potential market for or value of the copyrighted work.
2. Develop and make available resources concerning copyright laws in general and the application of fair use in specific situations.
  3. Provide reasonable guidelines to faculty, staff, and students to assist in making fair-use determinations.

### ***Copyrighted Classroom Handouts***

Emmanuel College Copy Center will reproduce copyrighted classroom handouts only if accompanied by written permission from the copyright holder(s). All copyrighted materials not sold to students by either Follett or Emmanuel College Copy Center, regardless of size, are to be considered classroom handouts.

### ***Course packs***

Course packs that are systematically duplicated from semester to semester and are sold commercially do not fall under fair use guidelines. Permission or licensing must be obtained from the various copyright holders of the contents of course packs that are

repeatedly used. College policy does not permit educational materials to be sold directly by faculty/staff.

In accordance with Emmanuel College policy and copyright law, the Emmanuel College Copy Center reserves the right to refuse to copy copyrighted materials that will exceed fair use or otherwise violate copyright law. Faculty/staff who utilize walk-up copiers assume all responsibility for following College copyright policy and the law. Faculty/staff who take materials to off-campus vendors for reproduction assume all responsibility and liability for copyright compliance.

Producing course packs that require copyright clearance and/or royalties through Follett Higher Education Group (Follett) is the recommended method of providing custom educational materials to be sold to Emmanuel College students.

Producing course packs that do not require copyright clearance and/or royalties on campus through the Emmanuel College Copy Center is the recommended method of providing custom educational materials to be sold to Emmanuel College students.

### ***Obtaining Permissions***

Faculty/staff are expected to adhere to copyright policy and guidelines in the duplication/printing of classroom materials. Emmanuel College Copy Center provides duplication/printing for the Emmanuel College community and recommends that departments contract with the Copyright Clearance Center (<http://www.copyright.com/>) for help in obtaining permissions or licensing.

- Faculty/staff should review the copyright content (if any) of class handouts and submit the appropriate form(s) and information along with the originals to Emmanuel College Copy Center.
- Faculty/staff must obtain written permission from the copyright holder before the material can be reproduced.
- Acquisition of copyright permission is often a complex and time-consuming process; therefore, adequate time should be allowed for processing. Some permissions are granted immediately through the Copyright Clearance Center and others must be obtained directly from the copyright holder and may take up to eight weeks or more.

### ***Library reserves***

The library cannot accept the following for reserve without permission from the copyright owner:

- **Photocopied materials:** The library cannot accept photocopied materials as course reserves. The instructor must provide an original work for the Library to photocopy. The Library will produce only one copy from the original work for reserve.

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- Repetitive copying: Photocopies may be placed on reserve **only once** unless a license or written permission from the copyright holder is submitted to the library. The classroom or reserve use of photocopied materials in multiple courses or successive semesters/years will normally require advance permission from the owner of the copyright, Title 17 U.S. Code sec.107 (3). Thus, a license or permission must be obtained if a faculty member intends to use the material for more than one semester.
- Consumable works: The duplication of works that are consumed in the classroom, such as standardized tests, exercises and workbooks, normally requires permission from the copyright owner, 17 U.S.C.sec.107 (4).
- Creation of anthologies as basic text material for a course: This can be done through the College bookstore, which will obtain appropriate permissions. The library will put one copy of such course material on reserve for one semester only.
- Copies of entire entities
- Interlibrary Loan materials
- Recorded copies: Recorded copies such as CD's or video tapes are strictly prohibited. Only commercial media products are accepted for library reserve. Copies of audio or video recordings of music or other material in the public domain privately produced (i.e., non-commercial) by a faculty member (who technically owns the copyright) who chooses to put them on reserve are excepted.

### *Use of Blackboard Vista in hybrid or online courses*

The Technology, Education, and Copyright Harmonization (TEACH) Act of 2002 allows faculty in an accredited, non-profit institution to reproduce the classroom experience using course management software for distance education in an environment whose access is limited to enrolled students who are provided with information on copyright laws and compliance. The same fair-use limitations apply in this case as in the face-to-face classroom. (*Cf.*, Copyright Clearance Center, Inc., "The TEACH Act New Roles, Rules and Responsibilities for Academic Institutions," <http://www.copyright.com/media/pdfs/CR-Teach-Act.pdf> ).

### *Areas of caution:*

- using the same third-party materials year after year – obtain permission or license
- photocopying or posting multiple chapters from the same book or multiple articles from the same journal or magazine
- posting multiple photos or graphics from one textbook. This includes posting CD-ROMS or other graphics that are part of a textbook purchase, which posting would obviate the need for students to purchase the text.
- posting any third-party materials to sites accessible to the Internet-at-large, including faculty members' personal web sites. When these materials can be

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- universally accessed and copied for free, it can be particularly damaging to an author or publisher who normally licenses such materials for a fee or manages distribution in some other way.
- preventing storage and dissemination of copyrighted works in an electronic environment, which includes dissemination of a course textbook and accompanying materials
- using more than 10% or 3 minutes of a video
- using more than 10% or 30 seconds of a musical recording
- failure to provide proper attribution

### **Course Materials – Best Practices**

The copyright principles governing educational use of copyrighted works in electronic environments such as Blackboard Vista are the same as those that apply to the creation of course packs and other paper copies. Use of copyrighted electronic course content that would require permission from the copyright owner if the content were part of a photocopied course pack normally requires the owner's permission when made available in electronic format as well. A reasonable approach can generally be achieved to balance the goals of educators with the rights of authors. The following best practices are provided to guide the assessment of whether fair use applies to the educational use of copyrighted materials. As dictated by your educational objectives:

- Use your own original works, government works, and public domain works as much as possible.
- In Blackboard Vista, provide a link to the owner's site or a persistent (durable) link from the Library's databases rather than providing a copy of the work.
- Display/project/play a single copy of any work, without limitation, in face-to-face teaching.
- Display/project/play digitized materials accompanying course texts in face-to-face teaching only. Do not make such materials accessible in an electronic milieu without written permission from the copyright holder, when such availability affects the market or potential market for or value of the copyrighted work.
- If third party materials are used online, limit access to students registered in the course through a password-protected site.
- Terminate online access to third party materials at the end of the term.
- When possible and appropriate, copy-protect course materials posted online.
- Include copyright notices and other appropriate attribution.
- Provide notice to students: **“Posted materials are for educational use only. Do not copy or distribute.”**

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