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Introduction

Purpose of Policy
The purpose of this policy is to ensure Library resources, equipment, and services are used in compliance with federal copyright law. The policy is also intended to inform KVCC faculty, staff, and students of any applicable copyright laws and exceptions that may affect their work with Library resources and equipment.

All sections of this policy have been created in accordance with the Copyright Law of the United States, Title 17 United States Code. Library users who willfully disregard this policy will assume all liability inherent within.

Copyright Basics
Copyright law ensures that copyright owners maintain authority and control over the use of their work. Some uses of copyrighted works are allowable. Within Copyright Law, certain uses (such as “fair use”) of copyrighted material are permitted without obtaining permission from the rights holder. Copyright law protects a work for a limited time, after this time works enter the public domain. Works in the public domain may be used in any capacity without permission from the copyright claimant.

Copyright Compliance
KVCC Library upholds the college’s policy on copyright compliance:

Kalamazoo Valley Community College is committed to adhering to all applicable laws regarding intellectual property. All faculty, staff, and students are required to comply with Title 17 U.S. Code, the United States Copyright Act; the Digital Millennium Copyright Act of 1998; and, the Technology, Education, and Copyright Harmonization (TEACH) Act of 2002” (2013, KVCC CMOP 5020.)

Liability for Infringement
Copyright owners may seek statutory or actual damages for any infringements. Library staff will follow this policy and should not knowingly allow violations to take place in order to protect KVCC and the Library from vicarious liability and contributory infringement.

Copyrightable Works
Works that are “original” and “fixed in any tangible medium of expression” may be copyrighted (17 U.S.C. § 102(a) (2006)). This includes works of the following nature:

- Literary
- Musical
- Dramatic
- Pantomimes and choreographic
- Pictorial, graphic, and sculptural
- Motion pictures and other audiovisual
- Sound Recordings
- Architectural

**Limitations on the Use of Copyrighted Materials**

Copyright law provides copyright owners with the following rights over their material(s):

- Reproductive
- Derivative works
- Public distribution
- Public performance
- Public display
- Digital audio transmission of sound recordings
- Importation

**Exceptions to the Limitations on the Use of Copyrighted Materials**

There are many instances where permission or paid royalties are not required in order to use a copyrighted work. These exceptions include works in the public domain, fair use, and preservation for archives and libraries.

**Public Domain**

It is not necessary to receive permission or pay royalties to use works in the public domain. These works include:

- Materials that were never copyrighted (not all materials)
- Materials with expired copyright
- Works of the U.S. Government (including laws of state and local governments)

If you would like more detailed information on the public domain, Peter B. Hirdle of Cornell University has created a helpful document titled “Copyright Term and the Public Domain.” This document is updated annually.

- [Copyright Term and the Public Domain (2014) by Peter B. Hirdle](https://copyright.cornell.edu/resources/publicdomain.cfm)

**Fair Use**

Fair Use permits some, *but not all* uses of copyrighted material for the following purposes:

- Criticism
- Comment
- News Reporting
- Teaching
- Scholarship
- Research
Using a work for one of the above purposes favors fair use, but it does not guarantee that a use is fair. In order to determine whether a use is fair the following four factors must be considered and weighed evenly.

Four Factors of Fair Use

1. Purpose and character of the use
2. The nature of the copyrighted work
3. The amount and substantiality of work as a whole
4. The effect on potential market or value

Making Library Materials available through Moodle

Articles/Content from a Library Database

Faculty should provide access to material from a library database by direct linking. Direct linking does not copy the material, but provides access to users with KVCC credentials. Content should not be copied and pasted into Moodle.

Book Scans

For one semester, 5% of a total work may be used for an item in-print and 10% of a work that is no longer in-print.

Scanned Copyrighted Images

If the use is educational, scanned copyrighted images may be used for one semester.

Interlibrary Loan

Material that is acquired through Interlibrary Loan may not be used in Moodle.

Website in Library’s Catalog

Copyrighted web sites found in the Library’s catalog may be used in Moodle by providing a direct link. Content should not be copied and pasted into the LMS.
Audiovisual Materials

Donations
KVCC Libraries reserve the right to refuse any materials “that might cause the Libraries to be liable for copyright infringement” (KVCC Library Gift Acceptance Policy, section 3.)

Duplication/Conversion
Unauthorized duplications and/or conversion of Library owned AV material is strictly prohibited.

The Library may duplicate/convert VHS tapes without permission from the copyright holder for educational use or preservation (see “VHS to DVD Conversion”, and “Preservation.”) The Library will attempt to obtain permission from the copyright holder for all other AV conversions/duplications.

Educational Viewing
17 U.S. Code § 110 (1) permits “the performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction.” This exemption permits classroom and Library viewing of videos for educational purposes.

Personal Use
The first sale exception (17 U.S. Code §109) permits Libraries to loan videos, in any format, to patrons for personal use.

Preservation (Archival Copies)
Title 17 U.S. Code § 108(c) permits a library or archive to make up to three copies of damaged, deteriorating, lost, stolen, or obsolete items without permission from the copyright holder. As VHS tapes are not yet considered obsolete, KVCC Libraries may duplicate or convert only damaged, deteriorating, lost or stolen VHS tapes to preserve these items for future use. Any archival copies in the DVD format are strictly prohibited from leaving the Library premises.

Public Performances
Use of KVCC videos for non-educational performances without permission from the copyright holder is prohibited. The Library will attempt to obtain permission for public performances of library owned films that do not meet the fair use §110 (1) exemption for educational viewing.

The Act defines a public performance as follows:

1. to perform or display it at a place open to the public or at any play where a substantial number of persons outside of a normal circle of 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 are capable of receiving the performance or display receive it in the same place or in separate places and at the same time or different times
VHS to DVD Transition

Preferred Video Format
The preferred video format for KVCC Library’s Educational Video Collection is DVD.

Weeding of VHS Collection
The Library is beginning the process of weeding the VHS collection. Items that are have been used recently will remain in the collection until replacements have been acquired.

Replacing VHS Titles (Faculty Requests)
Any VHS titles that are being used by faculty should be replaced with DVD copies available for purchase. To request a DVD copy of a film that the Library owns on VHS contact Ashley Bowler (x4313) or Chris Robbins (x4331) with title information. The Library will work directly with faculty to locate a replacement or alternative film. If the film is not available for purchase on DVD, discipline specific vendors will be provided to aid in the selection of an alternative film. If a suitable alternative cannot be found, there may be some cases in which the Library permits a VHS to DVD conversion.

VHS to DVD Conversions
In accordance with Title 17 U.S. Code §108, Library policy permits VHS tapes to be converted to DVD if all of the following requirements are met:

1. The title is not available for purchase on DVD.
2. An acceptable alternative is not available on DVD.
3. (a) Permission for conversion has been granted from the copyright holder, OR
   (b) The tape is damaged or deteriorating and an archival copy must be made to preserve the work. (These copies must remain on Library premises.)
4. A full citation and copyright notice appear on the duplicate work.

The above requirements must be met in the following ways:

1. Faculty must deliver a written or verbal request for a DVD replacement to Library staff. The Library will determine if the title is available for purchase.
2. The Library will provide faculty with individualized lists of educational film vendors by discipline to locate an alternative film.
3. (a) The Library will attempt to obtain permission from the copyright holder, OR
   (b) Inspections of any damaged tapes will be conducted by Library staff to determine whether or not conversion for archival preservation is warranted.
4. All duplicate works must contain a full bibliographic citation as well as a notice of copyright or a legend indicating that the work may be protected by copyright law (17 U.S. Code §108.)

If permission to convert is denied, the film will not be converted to DVD.
Reproducing Equipment & Unsupervised Duplication

Library users are prohibited from making unlawful copies of Library owned materials, or from using reproductive equipment in the Library to make such duplications.

KVCC Library provides unsupervised access to the following types of reproductive equipment:

- Photocopiers
- Scanners
- Computers
- Printers

The Library is not liable for any infringement conducted with unsupervised Library reproducing equipment per §108(f) (1) & (2).

The following notice is posted at all unsupervised reproductive equipment stations in the Library:

**NOTICE:** The copyright law of the United States (Title 17 U.S. Code) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.
Library Reserves

Copyright Guidelines for Reserves
Only materials that are lawfully obtained will be placed on Reserve. Materials are placed on Reserve at the request of KVCC faculty. The Library reserves the right to remove any materials that are not believed to be lawfully obtained or legitimate.

Reserve Request Form
A signed Reserve Request Form must be completed and returned to the Library as this document acts as authorization for items to be placed in Reserve under your name. Information on the Reserve form will also serve as a citation for duplicated items.

Permitted Use
Materials will be placed on Reserve for use by KVCC students enrolled in the class for which the item has been listed. KVCC Library Reserve materials are intended for educational, non-commercial use only.

Term Limits for Reserve Items
Items placed on Reserve for a specific course may only remain on Reserve during semesters in which the course is being taught. Items that are on Reserve for courses not currently being taught will be removed from Reserve.

Types of Items

Audiovisual Items
Library or instructor owned original copies of audiovisual items such as VHS tapes, DVDs, or CDs may be placed on Reserve. Permission from the copyright holder is not required.

Reproductions, duplications, and items borrowed from another library or video rental company may not be placed on Reserve.

Books
Books, in their original published form, may be placed on Library Reserve without obtaining permission from the copyright holder. Copies of a book may be placed on Reserve for up to one semester if the total does not exceed 15% of the work. Copies which exceed 15% of a total work may not be placed on Reserve without permission from the copyright holder.

Custom Made Anthologies/Course Packs
Professionally published course packs or anthologies that have been made with permission from copyright holders may be placed on Reserve. Anthologies or course packs that have been made by instructors without permission from the copyright holders may not be placed on Reserve; such items may be submitted individually (not bound together) if they meet the “Fair Use Guidelines for Photocopy Reserves.”

Off-Air Recordings
These recordings “need not be used in their entirety, but must not be altered from the original broadcast.” Off-air recordings may be retained up to 45 consecutive calendar days after the recording.
was made, and may be placed on Reserve during this period. All copies of off-air recording must include the copyright notice on the broadcast program as recorded. After 45 days, any copies of the broadcast will be returned and should be destroyed.

Consumables (Work Books)
Work books or other consumables that are intended for one time student use may not be placed on Reserve. Placing these works on Reserve for students to copy is not “fair use” because this would negatively effect the potential market for the item. Photocopies of pages from work books or other consumables also may not be placed on Reserve.

Interlibrary Loan/Other Libraries
Items received through Interlibrary Loan or borrowed from other libraries may not be placed on Reserve.

Photocopies
Photocopies of copyrighted works may be placed on Reserve if they meet the following “Fair Use Guidelines.” Photocopies of pages from workbooks or other consumables may not be placed on Reserve.

Fair Use Guidelines for Photocopy Reserves
1. Photocopies of up to 10% of a book may be placed on Reserve.
2. One article from one journal may be placed on Reserve.
3. The number of copies should be reasonable in light of the number of enrolled students (17 U.S. Code § 10 (1)-(3)).
4. All Reserve copies must include a full bibliographic citation as well as a copy of the copyright notice from the original source. If the original copyright notice cannot be located, the Library will add a standard notice to the material (Notice: This material may be protected by Copyright Law (17 U.S. Code).
5. Access to copies should be limited to students currently enrolled in the class.
6. Access to copies shall be terminated at the end of the class term (Reserve periods greater than one semester do not qualify as “fair use,” such use requires permission from the copyright holder.)

Instructor Lectures/Presentations
Instructors may place their own lectures on Reserve. It is the instructor’s responsibility to ensure that the material in the lecture/presentation is copyright compliant. If the Library discovers that a lecture on Reserve violates copyright law, it will be removed and returned to the instructor.

Student Work
Student work may be placed on Reserve when accompanied by a signed and completed Student Work Release Form (see the following page).
KVCC Libraries Student Work Release Form

I waive my right to the privacy provided to me by the Family Educational Rights and Privacy Act (FERPA) of 1974 by permitting the following work:

*Title of work*: ______________________________________

*Course*: ______________________________________

*Instructor*: ______________________________________

To be used by

*Instructor*: ______________________________________

*Course*: ______________________________________

as an educational resource for KVCC students. I give my permission for this work to be placed on Library Reserve.

*Student Name*: ______________________________________

*Signature*: ______________________________________

*Date*: ______________________________________

*Permanent Address* (If you would like your work returned):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

COPYRIGHT POLICY - KVCC LIBRARIES
Library Website

Posting of Copyrighted Materials
In general, copyrighted materials, including graphics, may not be posted on the Library web site unless permission has been obtained or the materials fall within the fair use exception. KVCC Libraries will adhere to this requirement in creating the Library’s website, and documents made available through links on the Library pages.

Limiting Liability for Copyright Infringement via the Website
The Digital Millennium Copyright Act of 1998 includes the Online Copyright Infringement Liability Limitation, which provides for limitations on the liability of Online Service Providers (OSP) such as KVCC.

The provisions limit the liability of the OSP for copyright infringement that results from materials posted or transmitted by persons who are not employees of the OSP (e.g. students.) The provisions do not limit liability for infringement caused by employees, who must obtain permission or fair use exception. However, for nonprofit educational institutions, the provisions are extended to include liability limitation of infringement caused by faculty. That is, for the purposes of the provisions, faculty are not considered employees of the OSP.

To qualify for limited liability provisions, an institution must comply with the following requirements:

1. An agent must be designated to receive notices from copyright owners about infringement, and must register with the U.S. Copyright Office as such. (The Library will rely on the college to register an agent with the Copyright Office.)
2. The institution must have and post a policy which warrants termination of repeat offenders. The institution should also provide network users with information about copyright.
3. The institution must comply with “take down” and “put back” notices.
4. Systems should accommodate industry standard technical measures used by owners to protect their works from unlawful access and copyright infringement.
Interlibrary Loan

Articles or a chapter from a book may be copied by a library to fulfill ILL requests as long as the amount copied does not substitute a subscription to or purchase of the work. In addition to this guideline, KVCC Library also adheres to the CONTU (Commission on New Technological Uses of Copyrighted Works) guidelines in Section 108(g) (2) for loaning photocopied works.

CONTU guidelines specify that a library may borrow copies of up to five (5) articles from one journal during each calendar year. If more than five requests are made from one journal, copyright clearance charges must be paid. KVCC Library will track its own ILL requests in order to adhere to these guidelines. There are no restrictions on articles equal to or greater than five years old.

When requesting a photocopy via ILL, the borrowing library should indicate whether the request follows CCL (compliance with copyright law), or CCG (compliance with copyright guidelines). The KVCC Library will use the following standard definitions when indicating compliance:

CCG:

1. The article is dated within the last five years, and
2. KVCC Library does not own the journal title, and
3. This is the fifth or fewer request we have made for this title within the current calendar year.

CCL:

1. The article is more than five years old, or
2. KVCC Library owns the journal title, or
3. This is the sixth or greater request within the calendar year and the Library is paying royalties to the Copyright Clearance Center or another document delivery vendor.

The KVCC Library will fill any ILL request from another library that properly indicates compliance specifics as outlined above, provided that the requested material is available and eligible for ILL per Library policy.

All materials used to complete ILL requests must include a notice of copyright.