

Policy: **Copyright Policy: Charles J. Meder Library**

Policy Number: **B-11**

Responsible for Policy: Academic & Student Affairs

Approval Date: September 2011

Most recent review: Fall 2012

Date of most recent revision (*if applicable*): November 2012

### **Policy Statement**

Users of FLCC Library resources are required to comply with U.S. copyright law (Title 17, U.S. Code), which prohibits the unauthorized reproduction or distribution of copyrighted materials, except as permitted by the principles of "fair use." Users may not copy or distribute print or electronic materials (including electronic mail, text, images, programs, or data) without the explicit permission of the copyright holder.

Liability for copyright infringement may not be imposed on the library or its employees for unsupervised use of reproducing equipment located on its premises, provided that such equipment displays a notice that making copies may be subject to copyright law (17 U.S.C. §108f).

### **Reason for Policy**

This policy serves as a guide concerning the reproduction of materials in the Charles J. Meder Library, in accordance with the Copyright Law of the United States (Title 17, US Code) including the Digital Millennium Copyright Act (October 1998). Permission to copy this policy for non-commercial educational use is freely granted.

### **Applicability of the Policy**

All College employees and students should be familiar with this policy.

### **Definitions**

#### Intent of Copyright

The U.S. Constitution grants Congress the power "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries." The purpose of copyright is to further knowledge for the public good by providing authors with an economic incentive to publish their works. The intended beneficiary of copyright is the public; the author's gain is incidental except insofar as it functions as an incentive.

#### Public Domain/Duration of Copyright

1. Depending on when and whether a work was published, the duration of copyright may vary. Numerous resources are available to help determine whether a particular work is still covered by copyright, or has entered the public domain. See, for example, *Duration of Copyright* from the United States Copyright Office (<http://www.copyright.gov/circs/circ15a.pdf>) and *Copyright Term and the Public Domain in the United States* from the Cornell Copyright Information Center (<http://copyright.cornell.edu/resources/publicdomain.cfm>)

2. If a work is a United States Government publication, copyright protection is generally not available (17 U.S.C. §105). Nevertheless, a limited number of U.S. government publications may be copyrighted under special circumstances.

#### Fair Use

In recognition that the unrestricted flow of information is vital to a free society, the First Amendment to the U.S. Constitution prohibits actions that could abridge freedom of speech or of the press. Because information flows in more than one direction, The First Amendment guarantees both the right to express information and the right to receive it. Copyright, too, is intended to promote the sharing of ideas, but because it employs restrictions on the expression of ideas as an economic stimulus to their dissemination, copyright may come to conflict with the greater purpose of the First Amendment. The doctrine of fair use represents an attempt to strike a balance between the requirements of the First Amendment and appropriate compensation to authors

as protected by copyright, 17 U.S.C. §107 states that copyrighted materials may be reproduced under special circumstances that constitute fair use. Among the factors to be included in the consideration of what constitutes fair use are:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit education 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.

As a non-profit, publicly supported institution, Finger Lakes Community College exists to advance knowledge through research, to disseminate knowledge through teaching and to provide service to the public for continued learning. The Library's collections contain materials intended for the academic community and, as such, are of a nature appropriate to claims for fair use. Authors and publishers are compensated for their initial production costs in the purchase price of a publication. They have not, however, found it profitable to support publications for the long term. Thus most publications go out of print and become unavailable after a relatively short time. The responsibility for preserving information indefinitely has fallen to libraries; therefore, the reproduction of otherwise unavailable materials within the library collection can have no significant adverse economic impact on the potential market for or value of the material.

### **Related Documents**

- Copyright Law of the United States – U.S. Copyright Office <http://www.copyright.gov/title17/>
- Copyright & Fair Use - Stanford University Libraries <http://fairuse.stanford.edu/>
- Copyright at MIT <http://web.mit.edu/copyright/resources.html>
- Technology, Education and Copyright Harmonization Act of 2002 (TEACH Act)
- Columbia University Libraries/Information Services Copyright Advisory Office  
<http://copyright.columbia.edu/copyright/> &  
<http://copyright.columbia.edu/copyright/2010/08/19/copyright-distance-education-and-the-teach-act/>  
Complying with the Digital Millennium Copyright Act & Sonny Bono Copyright Term Extension Act  
<http://www.utsystem.edu/ogc/intellectualproperty/dmcalib.htm>
- Access to Electronic Information: Charles J. Meder Library

Procedure: **Copyright Policy: Charles J. Meder Library**

Procedure Number: **B-11**

Responsible for Procedure: Academic & Student Affairs

Effective Date: September 2011

Most recent review: Fall 2012

Date of most recent revision (if applicable): November 2012

## **Procedures**

### Copyright and New Technology

Copyright functioned most effectively when the means of reproduction was available to a limited number of agents with the requisite skills and equipment. In recent years technological developments have made it possible for almost anyone to make reproductions in a variety of formats. The Copyright Law along with the Digital Millennium Copyright Act is intended to address the needs of emerging technologies. The FLCC Library will continue to take full advantage of new technologies to further the College's educational mission.

### Reserves

At the request of a faculty member, photocopies of articles or chapters of books may be placed on reserve. Under the fair use guidelines, photocopies of these materials may be made without permission from the copyright owner. Three to five copies (one for every 10-15 students in the class) is the number recommended in the ALA Model Policy Concerning College and University Photocopying for Classroom, Research and Library Reserve Use (March 1982). More than 5 copies of articles or parts of copyrighted works may be put on reserve only with written permission of the copyright holder. Articles and chapters photocopied from copyrighted publications and bound into an anthology may not be accepted by the Library for the reserve collection unless accompanied by letters of permission from the copyright holders. Material that has been photocopied by the Library for the express purpose of being put on reserve will be the property of the Library and will be retained for a specified time period. If the material has not been requested during that time, it will be removed.

### Interlibrary Loan

The Library endeavors to provide maximum participation in the interlibrary loan process for both Finger Lakes Community College users and for other libraries that ask us to provide materials to fill their users' requests. At the same time, the Library attempts to follow the guidelines formulated by the National Commission on New Technological Uses of Copyrighted Works (commonly referred to as the CONTU guidelines) to address the dilemma of copying as it might apply to the interlibrary loan process. Though these guidelines are merely recommendations and may not carry the force of law, the FLCC Library adheres to CONTU along with a majority of ILL departments at other institutions because these guidelines uphold the fair use doctrine. The guidelines allow the Library to obtain five journal articles per title from the last five years free from royalty considerations, and do not place restrictions on articles over five years old. In those cases when the Library exceeds this limit, the ILL department shall use either the Copyright Clearance Center or a commercial document supplier.

Interlibrary loan operations consist of two distinct functions: borrowing and lending. CONTU guidelines apply to both functions; however, responsibility for compliance falls primarily on the borrowing library.

1. Borrowing: All requests for materials not available in the Charles J. Meder Library are referred to the ILL department. ILL staff will attempt to obtain material not owned by the Library without violating copyright law by using the Copyright Clearance Center or commercial document delivery if necessary.

2. Lending: Since the guidelines state that the requesting library shall maintain records of all requests it makes for copies, the staff will fill any request for a photocopy of an article as long as copyright compliance is indicated on the request form (CCG or CCL) by the requesting library.

### Copyright Clearance Center

Charles J. Meder Library is registered with the Copyright Clearance Center, which gives immediate authorization to copy articles beyond the CONTU five-in-five rule. This is a not-for-profit service that collects and distributes the royalty fees.

### Media Collection

The Charles J. Meder Library follows the general copyright policy for all media materials. Complete copyrighted media materials will not be duplicated without written permission or appropriate license agreement from the producer. If the material is out of print and no longer available from a distributor, duplication shall be allowed. All requests for off-air, cable, or satellite transmissions will be referred to the IT/Educational Technology department.

### Digital Resources

Digital materials account for a growing proportion of resources at the Charles J. Meder Library. The Library's copyright policy is based on the premise that the protections afforded to the creators of original works are not affected by the physical form in which the works are preserved. The benefits of copyright should not depend on the type of storage media. Therefore, the copyright protection afforded to printed, recorded and broadcast materials applies equally to electronically published materials. However, while in print and traditional audio and video materials the Copyright Law (Title 17, US Code) is used to consider violations of copyright, in the world of the Internet the Digital Millennium Copyright Act now applies.

In accordance with the Digital Millennium Copyright Act (October 1998), all databases and software used in the Library must have signed licenses or contracts. The contracts should cover browsing, transmitting within the campus environment, displaying, downloading and printing reasonable portions of the database for educational use.

### **Forms/Online Processes**

- None

### **Appendix**

- None