



**Cochise College  
Administrative Policy**

**Category: Instruction  
Policy Number: 3024**

**Title: Intellectual Property, Course Ownership, and Copyright**

Cochise College adheres to all U.S. and international copyright laws including those in the 2002 “Technology, Education, and Copyright Harmonization Act” (TEACH), the 1998 “Digital Millennium Copyright Act” (DMCA), the 1979 “Berne Convention,” and the current 17 U.S.C. §§ 101 – 810 which includes “Fair Use.” (See Policy 4017 regarding student intellectual property and copyright.)

**Procedure 3024.1  
Intellectual Property Ownership**

1. Under copyright law, a work created by an employee within the scope of employment is considered a “work for hire” and is owned by the employer. However, Cochise College encourages research and creativity and maintains that works created in the normal course of academic endeavor (such as lecture notes, handouts, examinations, computer software, artistic pieces, etc.) are deemed to be the property of the creator and accordingly cedes full rights to the instructor.
2. As exceptions to the above, Cochise College will retain ownership and full rights for materials created by faculty when:
  - a. The material is created as part of an assigned task for which some consideration is offered (such as incentive pay or release time); and/or
  - b. The material is created using an exceptional investment by the College. Such investment may include technology, facilities, or any other resources beyond that normally provided faculty in the ordinary course of their duties.
3. Class materials developed by faculty belong to the creator unless the College has paid a fee for the work.
4. For material created pursuant to a grant, ownership is determined by the provisions in the grant.

**Procedure 3024.2  
Class Use of Personally Copyrighted Materials**

1. Departmental faculty members are required to follow College policy and procedure in regard to textbook selection. Individual faculty members may not require students to purchase materials for which that faculty member is receiving royalties or other remuneration as this constitutes a conflict of interest. In the event a textbook or other course materials have been authored by a faculty member and that textbook or course materials is under consideration for adoption by a department, that faculty member must declare a conflict of interest in accordance with Policy 646 and will be expected to recuse himself/herself from the decision-making process.

2. Materials created by faculty members and reproduced by the Cochise College print shop (or other agency) may be made available to students at cost through the bookstore or other means. However, no faculty member or other employee may receive royalties or other payment for this material.

**Procedure 3024.3  
General Provisions**

1. Instructors must follow the provisions of “Fair Use,” the “TEACH” Act, the “DMCA,” and all other copyright laws and regulations.
2. Instructors are ultimately responsible for obtaining permission to use copyrighted work and to appropriately cite all sources used in class.

**Procedure 3024.4  
Training and Resources**

1. Training and resources on copyright provisions for faculty and staff are available.
2. The Cochise College Library will maintain current reserve materials on intellectual property and copyright for faculty and staff. The Library staff, in coordination with the Vice President for Instruction/Provost, will determine the scope of these materials.

**Explanations:**

1. The provisions of “TEACH” include:
  - a. Students must be warned that copyrighted materials are being used and that they must not copy or publish those materials without permission.
  - b. Any non-dramatic performance of literary or musical work is permitted.
  - c. Performances of a dramatic nature are restricted to only the length necessary to make a teaching point.
  - d. The display of other materials (such as art work) is permitted comparable to that used in a traditional class.
  - e. Works created specifically for online presentation by a publisher (such as electronic texts) cannot be used without the publisher’s permission.
  - f. All works used must be legal copies obtained by lawful means.
  - g. Works can only be used under the direct supervision of the instructor as part of an authorized course of study.
  - h. Materials must be transmitted in such a manner that access is restricted to only registered students

and, as much as possible, cannot be retained on the student's computer.

- i. Materials may be posted for as long as needed by the students, but must be removed at all other times.
2. The "DMCA" preserves copyright enforcement on the Internet and provides immunity to service providers from copyright infringement liability. It:
    - a. Makes it a crime to circumvent anti-piracy measures built into most commercial software.
    - b. Outlaws the manufacture, sale, or distribution of code-cracking devices used to illegally copy software.
    - c. Permits the cracking of copyright protection devices only to conduct encryption research, assess product interoperability, and test computer security systems.
    - d. Provides exemptions from anti-circumvention provisions for nonprofit libraries, archives, and educational institutions under certain circumstances.
    - e. In general, limits Internet service providers from copyright infringement liability for simply transmitting information over the Internet.
    - f. Expects service providers to remove material from users' web sites that appears to constitute copyright infringement.
    - g. Limits liability of nonprofit institutions of higher education -- when they serve as online service providers and under certain circumstances -- for copyright infringement by faculty members or graduate students.
  3. The "Berne Convention for the Protection of Literary and Artistic Works" is an international copyright treaty signed by 96 countries one of which is the United States. The treaty:
    - a. Requires member states to recognize the moral rights of integrity and attribution providing there is protection within the country's own legal system.
    - b. Requires that the author's work not be exploited.
    - c. Extends the terms of protection to the life of the author plus seventy-five years.
  4. "17 U.S.C. §§ 101 – 810" is the copyright law of the United States.
    - a. Title 17 of the U.S. Code prohibits the unauthorized reproduction or distribution of copyrighted materials, except as permitted by the principles of "fair use."
    - b. All material on the Internet should be considered protected by copyright laws.

- c. The act consists of thirteen chapters including:
  - i. Subject matter and scope of copyright
  - ii. Copyright ownership and transfer
  - iii. Duration of copyright
  - iv. Copyright notice, deposit, and registration
  - v. Copyright infringement and remedies
  - vi. Protection of semiconductor chip products
  - vii. Digital audio recording devices and media
  - viii. Sound recordings and music videos
- d. “Fair Use” (Title 17, Chapter 1, Section 107) allows for portions of copyrighted works to be used for purposes such as teaching, scholarship, or research. All copyrighted materials used in class (except those for which the college has received reproduction permission) shall be limited by the provisions of fair use. While the courts have interpreted “fair use” rather inconsistently, there are four factors normally considered when determining whether an action falls under fair use:
  - i. Purpose of Using the Work: All materials used must directly meet the needs of the lesson being taught. No student can be charged for the material and no employee of Cochise College can profit from the use of such material.
  - ii. Nature of the Work: Only portions of the entire work that are directly applicable to the lesson can be used. Generally, highly creative works (such as poetry, art, and short stories) are more vigorously defended by the courts than more factual works (such as technical writing).
  - iii. Amount of Work: Only the shortest excerpt possible to meet the objectives of the class can be used.
  - iv. Effect of Use on the Market for the Work: Works used in a classroom can have no negative effect on the marketability of the original work. All works used in a classroom should be properly cited and students should be warned that use of this work outside the classroom is prohibited.