

EASTERN WEST VIRGINIA COMMUNITY & TECHNICAL COLLEGE
BOARD OF GOVERNORS
POLICY No. BP 3.20

TITLE: COPYRIGHT, INTELLECTUAL PROPERTY and FAIR USE

SECTION 1. GENERAL

1.1 Scope: This policy describes the rights and responsibilities of the College, all employees and students in regard to intellectual property, copyright and fair use practices. Eastern supports the development and dissemination of intellectual property to enhance and support teaching and learning.

1.2 Authority: Copyright Act, Title 17 of United States Code

1.3 Effective Date: August 26, 2009

SECTION 2. DEFINITIONS

Copyright: The rights that protect original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device.

Covered Individuals: All faculty, staff or other persons employed by the College, whether full-time or part-time; anyone using resources or facilities owned by or under the supervision of the College; and all students enrolled at the College.

Ownership: A legally binding agreement specifying the named party or parties to whom the intellectual property belongs.

Significant Use: Use of College resources that is over and above the normal usage including but limited to staff time, equipment, software, office supplies and other consumables, facilities and funds in a manner that would not have otherwise occurred.

Tangible Media: Include, but not limited to, course materials; online courses, course packs, books, periodicals, manuscripts, CD recordings, films, tapes and computer disks.

Works of Authorship (including computer programs): Include, but not limited to, literary works; musical works including accompanying words; dramatic works, including

Submitted to WV CTCS: 08-28-09
Posted for 30 day Comment: 08-28-09
Approved by the Board of Governors: 08-26-09

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Approved by Cabinet August 18, 2009
Approved by LOT: July 23 2009

Adapted from multiple colleges including: Fairmont State University/Pierpont CTC; Hillsborough Community College; Marshall CTC; Howard Community College; New River Community College; North Hennepin Community College; Pitt Community College; Santa Fe Community College and www.copyright.gov

accompanying music; pantomimes and choreographed works; pictorial, graphic and sculptural works; motion pictures and other audiovisual works; sound recordings; architectural works and original data.

SECTION 3. STATEMENT

Eastern WV Community and Technical College (Eastern) acknowledges and abides by all current copyright and intellectual property law and guidelines and expects all employees and students to comply with U.S. Copyright law. Unless usage of a copyrighted work falls under the definition of Fair Use, written permission must be obtained from the copyright holder before reproducing or using the work.

This policy also defines the respective ownership rights of the College and of its employees (academic and non-academic), in copyrightable materials produced with the scope of employment or in activities of the College. The College does assert ownership of copyrightable work when produced as a result of a contractual agreement or when significant College resources are used in the creation of the work.

SECTION 4. OWNERSHIP OF INTELLECTUAL PROPERTY

The following guidelines will be used to establish ownership of copyrighted materials.

1. College Ownership:

- a) The College will own any and all intellectual property that is made, discovered or created by a Covered Individual who is specifically hired or commissioned by the College for that purpose.
- b) The College will own any and all intellectual property that is made, discovered or created by a Covered Individual within the scope of his/her employment by the College.
- c) The College will own any and all intellectual property that is made, discovered or created by a Covered Individual whose position description may include such duties, unless otherwise provided by written agreement between the Covered Individual and the College.
- d) The College will own any and all intellectual property that is made, discovered or created by a Covered Individual who makes significant use of College resources in the development of the work. In such situations, the College provides resources not generally available to faculty or has made a significant investment in the development of the work through providing substantial financial, personnel, technology, facilities or other resources.
- e) The College, at its discretion, may release its rights of ownership in the Intellectual Property. In such event, the College shall retain royalty-free license to use the work for educational purposes.

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2. Covered Individual Ownership:

- a) A Covered Individual owns all rights to Intellectual Property that is made, discovered or created by the Covered Individual on his/her own time, utilizing his/her own resources; that does not involve significant use of College resources or equipment; for which purpose he/she was not hired or contracted by the College and whose job description does not include performance of such duties. It has been the prevailing academic practice to treat the faculty/staff member as the copyright owner of works that are created independently and at the faculty/staff member's own initiative for traditional academic purposes. In this respect, Eastern recognizes and reaffirms the traditional academic freedom of its faculty and staff to publish freely without restriction.
- b) Covered Individuals who create reusable teaching and classroom materials for Eastern courses shall own these materials unless they are subject to a prior agreement or provisions of this policy governing their ownership. In all cases, the College shall have the royalty-free right to use, display, copy and distribute such materials for educational and administrative purposes.
- c) All Covered Individuals are obligated to disclose to the College in writing (via the College President and the immediate supervisor), the creation of all Intellectual Property governed by this policy to prevent the development of a conflict of interest or conflict of commitment. Such works may include but not limited to those produced with significant College resources or works produced through a third party agreement pertaining to Intellectual Property.
- d) Eastern treats intellectual property created by students in the same manner that it does intellectual property created by faculty and employees.

3. Exceptions to the above are authorized if approved by the President upon recommendation of an ad hoc committee appointed by the President and comprised of an equal number of faculty and staff.

SECTION 5. COPYRIGHT and FAIR USE

Federal copyright law provides for distribution of copyrighted materials in limited form through copyright fair use provisions. The fair use provision of the copyright law (Section 107 of the Copyright Act) allows for limited reproduction and distribution of published works without permission for such purposes as criticism, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.

Works may be reproduced under the fair use provisions. However, it is noted that the guidelines are ambiguous. When in doubt, permission should be obtained from the publisher in writing.

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Details regarding copyright processes and legislation are available from the United States Copyright Office at <http://www.copyright.gov/>

BOARD OF GOVERNORS, CHAIR

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