PURPOSE

This procedure provides guidelines regarding the copyright compliance policy of Hillsborough Community College. Copyright compliance refers to the use and duplication of any copyrighted material.

PROCEDURE

1. OVERVIEW

A. In order to adhere to the provisions of the U.S. Copyright Law (Title 17, U.S. Code, Section 101, et.seq.) all faculty, staff, and administrators are required to follow copyright compliance procedures.

B. The Dean of Learning Resources Services will serve as the College's Copyright Officer and will be the contact for copyright policy questions and matters regarding use and duplication. Questions concerning in-house publishing may be directed to the Bookstore Manager.

2. REQUESTING PERMISSION TO COPY

When permission is not allowed under the Copyright Act, it becomes necessary to request the permission from the copyright owner. The copyright owner is the only one that has the right to duplicate, create a derivative, distribute, perform, or publicly display the copyrighted work. The person in need of permission has several options available. Permissions may be requested by writing directly to the publisher or author, by requesting a search from an independent agency, by entering into a license agreement, or by entering into a purchasing agreement.

A. Written Requests - Contact the Copyright Officer for the Guidelines on Written Requests for Permission to Copy. The Guidelines include sample letters.

B. Copyright Searches - There are several sources which provide copyright searches for a fee. At HCC, the bookstore belongs to the National Association of College Stores Copyright Permission Service. This computer service is offered primarily to faculty for the purpose of gaining permission for the duplication of material for classroom use. The bookstore will bill for royalties as directed by the requestor. Faculty may also use this service for their professional research.
3. FILMS AND VIDEOS

A. Whenever possible the College will purchase films and videos from distributors, not home video stores. Purchases and licenses of films and videos from distributors may include public performance rights. All purchase orders for video programs will include the following statement: "Price includes rights to show the video(s) on the college's closed circuit television system."

B. All College-owned films and videos are for educational and instructional use only, preferably within HCC classrooms. If public performance rights have been secured to do so, the films and videos may be used for extra curricular activities and fund raisers, but no admission may be charged. Each College-owned film and video received after July 1, 1992, will be labeled regarding what performance activities are allowed.

C. No College-owned films and videos may be rented to other educational institutions. Films and videos may be loaned to other educational institutions as available per standard interlibrary loan practice.

D. A video program with the "Home Use Video Only" warning label, which is either purchased or rented by the College or by a faculty member, may not be used for any other purpose except planned, direct, instructional activities which meet course objectives, and the program must be used in a classroom, in face-to-face instruction. Permission to use on the closed circuit system must be noted on the video and the appropriate documentation must be on file. These videos may not be used for entertainment, fund raisers, or time fillers. Another use, other than institutional, will require a license agreement at the time of rental or purchase. In addition, any duplication or any form of copying of video programs is illegal and prohibited. Additional guidelines for the purchase or rent of “home use only” videos may be obtained from the Copyright Officer.
4. OFF-AIR RECORDING OF BROADCAST TELEVISION PROGRAM FOR INSTRUCTIONAL USE

"Off-air taping" refers only to open broadcast stations, or simultaneous cable retransmission. This means that a program can only be taped if it is coming over the airways. It does not include cable transmissions, except when they are simultaneous with the open broadcast.

A. Institutional Taping - As per Federal Copyright Guidelines, Hillsborough Community College has established the following control procedures:

(1) The guidelines allow off-air taping by an educational institution only, not by an individual. The educational institution representative for these guidelines is the campus audiovisual technician.

(2) The taped programs may not be used for any other purpose except planned, direct, instructional activities, which meet course objectives, in a classroom, and in face-to-face instruction. The taped programs may not be used for entertainment, fund raisers, or time fillers. Any other use, other than instructional, will require a license agreement.

(3) If a faculty member wishes a program that meets educational course objectives to be taped off-air, the faculty member must request this action through the campus audiovisual technician. If television channels are available, the program will be taped and the faculty member notified.

(4) The guidelines go into effect immediately and the tapes will be labeled with deadline information. The faculty member may show the tape in classroom situations for up to ten (10) consecutive school days. On the 11th school day, the tape must be returned to the campus audiovisual area and can be used for evaluation purposes for another 35 consecutive days. At the end of 45 consecutive days, the tape will be erased.

(5) The faculty member may not make additional copies of the taped program. The LRC may make copies for the convenience of the faculty, but all copies are under the rules of the original and all copies must be returned to be erased at the end of the 45 days.

B. Personal Taping - A program may be taped off-air outside of the Campus AV area under certain circumstances with an HCC-owned tape or personally-owned tape, provided the following criteria are met:

(1) Taping with HCC-owned tape: Knowledge of the program requested came to the attention of the faculty member with such short notice that prior arrangements for institutional taping could not be made and/or channels
were not available for institutional recording. The faculty member should contact the campus audiovisual technician for specific instructions on requesting, acquiring, and returning the tape.

(2) Taping with personally-owned tape - Under extenuating circumstances, the Copyright Office may allow the faculty member to use his/her own tape with the understanding that the tape will become the temporary property of Hillsborough Community College within 24 hours after taping, at which time the copyright guidelines go into effect. Once the tape has been erased, it will be returned to the faculty member.

5. SHOWING VIDEO PROGRAMS

A. Showing Video Programs on In-Class and In-Lab Equipment

Video programs can be shown in classrooms through a closed circuit system provided that permission to do so has been given for the specific video programs. If no permission has been received and/or if no closed circuit system is available, the following procedure should be followed:

(1) Classrooms

a. Faculty members may not use their own equipment.

b. A video program may be used only if it meets the educational objectives of the course. A video program may be selected from the following sources:

i. The LRC/Learning Lab video collection;

ii. The District video collection;

iii. Materials rented through campus LRC/AV Services from an authorized source; or

iv. Materials with the "For Home Use Only" label that do not belong to Hillsborough Community College, provided the video meets the requirements of 3.D.

c. If a faculty member wishes to show a video program in a classroom and the source is from 1, 2, or 3 above, he/she should complete a campus Film/Video Request form and notify the AV Technician that an in-class viewing is required. If the source is from 4 above, then a Request for Video Equipment must be submitted to the campus AV services (see the administrative procedure, Audiovisual Services).
(2) Learning Labs

a. Learning Lab personnel are responsible for monitoring the use of all learning lab equipment.

b. Only video tapes owned or rented by the College, or those video tapes for which written permission has been obtained, may be used in labs. A request to use these video tapes must be submitted to learning lab personnel.

c. Faculty requests to place audio visual programs not owned or rented by the College into learning labs must be cleared by the campus librarian and the copyright officer. Such programs must meet all copyright compliance procedures and permission letters must be on file with the campus learning lab.

B. Showing Video Programs on a Closed Circuit System

(1) A campus LRC/Learning Lab may provide video programs for student, faculty, and staff through a closed circuit video distribution system.

(2) The LRC/Learning Lab will play video programs through a campus closed circuit system if the College has permission to use a closed circuit system. Selections must meet the educational objectives of the course and may come from the following sources:

a. The LRC/Learning Lab's video collection with closed circuit permission;

b. The District Video collection with closed circuit permission;

c. Materials rented through campus LRC/AV Services from an authorized source with closed circuit permission.

(3) The faculty member must contact the Campus LRC Learning Lab staff at least forty-eight (48) hours prior to a class to reserve a video program and any necessary equipment. A copy of the "Faculty Guide to the Video Distribution System" which explains the system and limitations regarding its use will be provided to the faculty member.

(4) A faculty member will reserve the video program for a specific class period. To begin the tape, the instructor will contact the LRC/Learning Lab through the intercom system.
6. PHOTOCOPYING OF BOOKS, PERIODICALS AND MUSIC

The following sections outline the official minimum guidelines (reprinted here), that relate to classroom copying in a not-for-profit educational institution with respect to books, periodicals, and music. These guidelines refer to the spontaneous copying of small amounts of materials. Faculty are encouraged to confer with the Bookstore Manager on all requests in which spontaneity is not an issue. For example: If a faculty member wants to make 100 copies of a two-page article to hand out to all sections of a course, the faculty member should confer with the Bookstore Manager on copyright permission, if there is sufficient time to do so. For in-house publications and handouts of more than 10 pages, refer to the administrative procedure In-house Publication of Instructional Materials.

A. Guidelines for Books and Periodicals

(1) Single Copying for Teachers - A single copy may be made of any of the following by or for a teacher at his/her individual request for his/her scholarly research or use in teaching or preparation to teach a class:

a. A chapter from a book;

b. An article from a periodical or newspaper;

c. A short story, short essay or short poem, whether or not from a collective work; or

d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

(2) Multiple Copies for Classroom Use - Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion. The following conditions must be met: the test of brevity and spontaneity as defined below; the cumulative effect test as defined below; and the inclusion of a notice of copyright.

a. The brevity test:

(i) Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a longer poem, an excerpt of not more than 250 words.

(ii) Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not
more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

The numerical limits stated in "i" and "ii" above may be expanded to permit the completion of an unfinished line of a poem or of any unfinished prose paragraph.

(iii) Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

(iv) "Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and other times for a more general audience, and fall short of 2,500 words in their entirety. Paragraph "ii" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprised of not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof, may be reproduced.

b. The spontaneity test:

(i) The copying is at the instance and inspiration of the individual teacher, and

(ii) The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

c. The cumulative effect test:

(i) The copying of the material is for only one course in the school in which the copies are made.

(ii) Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.

(iii) There shall not be more than nine instances of such multiple copying for one course during one class term.
The limitation stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.

(3) Prohibitions to (1) and (2) - Notwithstanding any of the above guidelines, the following shall be prohibited:

a. Copying shall not be used to create or to replace or as a substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated or reproduced and used separately.

b. There should be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable materials.

c. Copying books and periodicals shall not:
   i. substitute for the purchase of books, publishers' reprints or periodicals;
   ii. be directed by higher authority; or
   iii. be repeated with respect to the same item by the same teacher from term to term.

(4) No charge shall be made to the student beyond the actual cost of the photocopying.

B. Guidelines For Educational Uses Of Music

(1) Permissible Uses

a. Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.

b. For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a selection, movement or aria, but in no case more than 10% of the whole work. The number of copies shall not exceed one copy per pupil.
c. Printed copies which have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, altered or lyrics added if none exist.

d. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.

e. A single copy of a sound recording (such as a tape, disc or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purposes of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.)

(2) Prohibitions

a. Copying to create or replace or substitute for anthologies, compilations or collective works.

b. Copying of or from works intended to be "consumable" in the course of study or of teaching such as workbooks exercises, standardized tests and answer sheets and like material.

c. Copying for the purpose of performance, except as in (1)a above.

d. Copying for the purpose of substituting for the purchase of music, except as in (1)a and b above.

e. Copying without inclusion of the copyright notice which appears on the printed copy.

7. IN-HOUSE PUBLICATION OF INSTRUCTIONAL MATERIALS

A. A faculty member requesting that printed material be sold in the bookstore, or requesting a single handout of more than 10 pages, must follow the administrative procedure, In-house Publication of Instructional Materials.

B. Requests for duplication of printed material of less than 10 pages should follow the instructions in Section 6 of this procedure.

C. The Bookstore subscribes to the National Association of College Stores (NACS) Copyright Permissions Service. When the bookstore manager receives the completed and approved Request to Print Instructional Materials form, the
bookstore manager will use the NACS service to determine the availability of permissions to make multiple copies of the requested items and to print, or to print and sell, the published materials.

D. If permissions cannot be secured the bookstore manager will contact the faculty member. Copies of all permissions will be kept in the bookstore manager's office.

8. ARCHIVAL COPYING OF COPYRIGHTED AUDIOVISUAL WORKS

A. Only the libraries may make archival copies of audiovisual works and only under very limited circumstances: "solely for the purpose of replacement of a copy that is damaged, deteriorating, lost, or stolen, if the library or archives, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price" [Section 108 of the copyright law].

B. A request to make an archival copy should be directed to the campus Audiovisual Technician, the campus Librarian, and on to the Copyright Officer. Prior to making a copy, the Copyright Officer will determine that the program is no longer available on the open market from regular distributors, document the research done in terms of trying to get a new copy at a reasonable cost and confirm that the College owns the copy it wants to reproduce.

9. COMPUTER SOFTWARE AND APPLICATIONS

Copyright law includes data, programs, documentation, and databases; each may be copyrighted separately. Computer programs are protected under the 1976 Copyright Act and are classed and registered as literary works. Section 101 defines a computer program as "a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result."

Section 117 of the 1976 Copyright Act, amended in 1980, allows copying or adapting a computer program only where use of the computer itself cannot be achieved unless the program is loaded into the machine and a copy made, or the copy is made for archival purposes. It is now considered a felony to duplicate or distribute software or its documentation without the permission of the copyright owner.

A. Duplication of Software

(1) The Copyright Act (Title 17, U.S. Code, Sects. 101, 103, and 117) authorizes making one backup or archival copy of a program which is legally owned.

(2) Only software legally purchased by the institution may be used on HCC computers.
(3) Only employees and students of HCC may use HCC-owned software and hardware.

(4) The copy made must not be used as a second copy. The copy must be destroyed if the continued possession of the computer program ceases to be rightful.

(5) HCC-owned software must be used exclusively on HCC hardware and may not be copied for use at home.

(6) The individual employee is responsible for the legal use of software on hardware assigned to him/her. In a laboratory situation, the employee responsible for the lab is responsible for the legal use of software on the hardware located in the lab.

(7) Computer software may be loaned by a non-profit library without permission of the copyright owner; but it is required that a warning of copyright be affixed to the package containing the computer program.

(8) Written copies of permissions and licenses should be kept on file in the employee's work area or in the lab, as appropriate.

B. Converting and Transferring

Changing a copyrighted work from one format to another is considered creating a derivative work and is a right of the copyright owner. Persons may maintain a diskette copy since only one archival copy is permitted. It is recommended that permission be requested to make this change. Similarly, if the content of a diskette is transferred to a hard disk, the disk must become the archival copy. Multiple loading of the same program into several machines constitutes making multiple copies which is not permitted under the law unless a multi-use license has been obtained.

C. Networking and Multiple Machine Loading

Although there are no specific guidelines written into law related to networking, the consensus of legal opinion indicates the strong possibility of infringement in the area of fair use. The purpose of use and the impact on the marketing of the copyright owner's materials must be considered. Therefore, HCC subscribes to the 1980 Computer Software Act:

(1) Networking other computers or terminals to one hard disk is an infringement unless a networking license is obtained for each copyrighted software placed on the hard disk.
(2) Multiple loading of programs into several machines constitutes making multiple copies which is not permitted under the law.

D. Databases

(1) Downloading

Online databases are protected by copyright law; downloading is the process of transferring information found online to a microcomputer printer, or hard drive in order to use the information. Regulations for accessing and downloading a specific database are usually defined in a vendor contract. Employees and students are advised to follow these guidelines:

a. review all contracts or license agreements.

b. do not retain archival copies of a downloaded search.

c. do not use the downloaded material to create a derivative work.

d. inform all library and lab users of the conditions of the databases they search.

(2) Creating and Distributing

The Fair Use Guidelines pertain only to print material, not to computer databases. In terms of public display, the exemption for a performance is not met because the instructor is not present and the information is not necessarily related to the curriculum. In attempting to develop a database from copyrighted material, the employee or student must secure permission from the author for the right to copy the material into a database and to distribute the databases though multiple copies or multi-terminal viewing.

10. GUIDELINES FOR EDUCATIONAL MULTIMEDIA

Multimedia Fair Use Guidelines permit faculty and students to include portions of copyrighted work in their projects without securing prior permission, if the projects are presented for educational and not-for-profit purposes. Permission should be obtained if material is downloaded from the Internet and any question of copyright violation exists. Permission must be obtained if the project is used for commercial purposes, if additional copies are to be made, or if the project will be distributed over a network beyond the original scope.

The following conditions must be met if prior permission is not obtained:
A. Sources should be acknowledged in any multimedia project, and a notice of copyright should be included.

B. Faculty may use a multimedia project in the classroom for up to two years (and they may also use the project to present at conferences).

C. In general, ten percent of the contents from a given source may be included in a multimedia project.

D. Only one archival copy of the multimedia work may be retained.

11. INTERNET AND EMAIL MATERIALS

Materials that appear in electronic form are copyrighted, and using them without permission may violate copyright compliance (see guidelines for multimedia projects in section 10). Copying materials is not a violation if the intent is fair use or if the copyright holder provides an implied license. However, if a question of copyright violation exists, the source of the material should be contacted for permission, especially if the material comes from a dynamic website; e.g., one that is updated on a regular basis.

12. ELECTRONIC RESERVES

As with print reserve materials, unauthorized copies may be made of electronic reserve materials. Faculty should work with their campus librarians to secure necessary permissions and prevent unauthorized use of reserve materials.