

# APPENDIX D

## General Copyright Guidelines

These guidelines are intended to assist the faculty, administration and staff of Stark State College of Technology in understanding and complying with the 1976 copyright law (Title 17, United States Code). While some areas of the copyright law are clear, there are some portions which remain open to legal and judicial interpretation. For this reason, these guidelines will be periodically updated.

### **Definition of Copyright**

Copyright is a right granted by Congress to the author or originator of certain literary or artistic productions whereby the author's works are protected for a period of his/her lifetime plus fifty (50) years. A copyright provides the author with the sole and exclusive privilege to perform the following acts:

1. To reproduce the copyrighted work
2. To prepare derivative works
3. To distribute copies of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease or lending
4. To perform or display the copyrighted work publicly.

### **Legal Framework for Copyright**

Article I, Section 8, Constitution of the United States provides the basis for the concept of copyright. It states as follows: "The Congress shall have the power --- To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." The first federal copyright law was enacted by Congress in 1790 and was revised periodically with the latest act passed in 1976, effective on January 1, 1978. The Copyright Act is found in Title 17 of the United States Code, Section 101 *et seq.*, and various sections of the act will be referenced in these guidelines.

### **Subject Matter of Copyright**

Copyright protection exists for original works of authorship fixed in any tangible medium of expression, not known or later developed, from which the works can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include but are not limited to the following categories:

1. Literary works
2. Musical works, including any accompanying words
3. Dramatic works, including any accompanying music
4. Pantomimes and choreographic works

5. Pictorial, graphic, and sculptural works
6. Motion pictures and other audiovisual works
7. Sound recordings

Copyright protection does not extend to any idea, procedure, process, system, method of operation, concept, principle or discovery, regardless of the form in which it is described, explained, illustrated or embodied in such work.

### **Duration of Copyright**

For works created on or after January 1, 1978, copyright begins when the work is first "fixed in copy," i.e., when it is first written down or recorded and extends through the life of the author plus 50 years.

For works created prior to the new copyright law there are two safe ways to handle these copyrights.

1. Treat any pre-1978 copyright as valid from its date to the end of its 75th calendar year, or
2. Contact the publisher, if still in existence or the U.S. Copyright Office, to identify the copyright owner so that continued vitality to the copyright can be determined.

### **Compliance with Copyright Law**

No employee or agent of Stark State College shall knowingly infringe upon the copyrights of another.

### **Permission**

Employees shall seek and obtain the permission of the copyright owner prior to making use of copyrighted materials unless one of the following exemptions pertains:

1. The work was never copyrighted. (This is often difficult to ascertain since recent amendments no longer make it mandatory to place the copyright notice on copyrighted works.)
2. The copyright has expired. These works are part of the public domain and may be freely copied.
3. The work lies in the public domain. Examples of works in the public domain are works which were never copyrighted, works where the copyright has expired and works originally published by the U.S. Government.
4. The copying and/or distribution falls within "fair use."
5. The copying and/or distribution falls under certain library or archive copying.

### **Fair Use**

The 1976 copyright law incorporated into the law the judicial doctrine of "fair use" (Section 107) which allows limited copying of copyrighted works in teaching, scholarship and research situations. In determining whether a work in a particular case constitutes fair use the factors to be considered shall include the following:

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

## **Obtaining Permission or Licenses**

### **In General**

Most copyright owners will grant permission for one-time use of parts of their works without charge, or upon payment of a minimal fee. However, repeated use or republication is often not allowed unless royalties are paid. These royalties are the legitimate compensation for the creative effort made by the author or originator of the copyrighted work. While the budget funds may be limited, the College does not condone any violation of law simply because that violation saves the taxpayers' money. Accordingly, in every circumstance possible, prior permission shall be obtained for the use of copyrighted works.

### **Requests for Permission**

Whenever possible, requests for permission shall be in writing. All requests shall identify the user as Stark State College of Technology.

Requests by instructors or administrators should include the following information suggested by the Association of American Publishers:

1. Title, author and/or editor, and edition of materials to be duplicated
2. Exact material to be used giving amount, page numbers, chapters and, if possible a photocopy of the material
3. Number of copies to be made
4. Use to be made of duplicated materials
5. Form of distribution (classroom, newsletter, etc.)
6. Whether or not the material is to be sold, and
7. Type of reprint (ditto, offset, typeset)

The request should be sent, together with a self-addressed return envelope, to the permissions department of the publisher in question.