

<b>Copyright Policy</b>	Procedure Number	490.6
	Effective Date	3-1-19

**1.0 INTRODUCTION**

1 The University of Arkansas-Pulaski Technical College is an institution that values integrity in  
 2 intellectual discourse. As such, the College is committed to adhering to applicable laws regarding  
 3 intellectual property and copyright including the United States Copyright Act, 17 U.S.C. § 101 et  
 4 seq.

5 This document works in tandem with Board Policy 210.1 (Patent and Copyright Policy) which  
 6 addresses the ownership of authored works by members of the University of Arkansas community  
 7 and Board Policy 210.2 (Copyright and Distance Learning) which addresses the creation and use of  
 8 “Technology Enhanced Course Materials.”

**2.0 PURPOSE**

9 The purpose of the College Copyright Policy is to provide a summary of U.S. copyright law as it  
 10 relates to the activities of faculty, staff, and other employees at the University of Arkansas-Pulaski  
 11 Technical College. It also provides some guidelines on the practices of using copyright materials.  
 12 When permission to use copyrighted materials is required, that permission must be obtained prior  
 13 to the use of copyrighted materials.

14 This policy is not a substitute for legal advice and proper legal advice should be obtained when  
 15 necessary.

**3.0 REVISION HISTORY**

16 Adopted on:  
 17 Revised on:  
 18 Supersedes: UA-PTC Board Policy 2.42 Copyright Policy

**4.0 PERSONS AFFECTED**

UA-PTC employees

**5.0 COPYRIGHT LAW**

**5.1 Background**

19 Copyright law provides creators and distributors of creative works with an incentive to share  
 20 their works by granting them the right to be compensated when others use those works in  
 21 certain ways. Specific rights are granted to the creators of creative works in the U.S. Copyright  
 22 Act. Generally, if you are not a copyright holder for a particular work, as determined by the law,  
 23 you must obtain copyright permission prior to reproducing that work. There are specific

24 exceptions in the Copyright Act for certain academic uses. Permission is never required for  
25 certain other actions such as reading or borrowing original literary works or media materials  
26 from a library collection.

27 The rights granted by the Copyright Act are intended to benefit "authors" of "original works of  
28 authorship", including literary, dramatic, musical, architectural, cartographic, choreographic,  
29 pantomimic, pictorial, graphic, sculptural and audiovisual creations. Most creative work are  
30 protected by copyright, including books, magazines, journals, newsletters, maps, charts,  
31 photographs, graphic materials, and other printed materials; unpublished materials, such  
32 consultant reports; and non-print materials, including electronic content, computer programs  
33 and other software, sound recordings, motion pictures, video files, sculptures, and other  
34 artistic works. Copyright law does not protect ideas, data, or facts. Since March 1, 1989, a  
35 work does not have to be published with a copyright notice (©) or, since January 1, 1978,  
36 registered with the Copyright Office to receive the benefits of copyright protection. The  
37 moment that a work is affixed in some tangible way, it is protected by copyright law.

38 Copyright law provides copyright holders with control over the use of their creations and an  
39 ability to benefit, monetarily and otherwise, from the use of their works. Exclusive rights are  
40 granted to the "authors" to, or authorize third parties to:

- 41 • Reproduce the copyrighted work in copies or phono records;
- 42 • Prepare derivative works based upon the copyrighted work;
- 43 • Distribute copies or phono records of the copyrighted work to the public  
44 by sale or other transfer of ownership, or by rental, lease, or lending;
- 45 • In the case of literary, musical, dramatic, and choreographic works, pantomimes,  
46 and motion pictures and other audiovisual works, perform the copyrighted work  
47 publicly; and
- 48 • In the case of literary, musical, dramatic, and choreographic works, pantomimes,  
49 and pictorial, graphic, or sculptural works, including the individual images of a  
50 motion picture or other audiovisual work, display the copyrighted work publicly.

51 Copyrights are not always owned by the author or creator of the work. Authors often agree  
52 to assign their copyright to the publisher of the work. In such instances, even the author will  
53 have to request permissions to reproduce, distribute, perform, or create derivative works if  
54 they did not retain those rights from the publisher.

55 Purchasing a copy of a book or a video does not bestow upon the owner of the physical copy  
56 of the work any rights normally assigned to authors.

57 A work created in another country may also have copyright protection. As a member of Berne  
58 Convention, the United States applies copyright law automatically to the use of international  
59 works.

60 Copyright protection does not cover all intellectual property such as trademarks and patents  
61 (which are covered by other legislation). In addition, licenses for access to software,  
62 databases, video materials and the like may contain contractual language which limits or  
63 prohibits copying, reformatting, or reuse. Some works, such as most government documents,  
64 materials that have fallen out of copyright or are in the public domain, or those that have been

65 given specific creative commons licensing, may be used freely. Free access to a work, such as  
66 that obtained via a web site, does not automatically indicate that the work is in the public  
67 domain.

## 5.2 Author/Creator Rights

68 For information on the ownership rights of University of Arkansas-Pulaski Technical College  
69 faculty, students and staff with regard to the creation of materials developed from research  
70 or teaching, please see Board Policy 210.1(Patent and Copyright Policy) and Board Policy  
71 210.2 (Copyright and Distance Learning).

## 5.3 Fair Use

72 The Fair Use Exemption found at Section 107 of the Copyright Law allows for limited  
73 reproduction of someone else's copyright-protected work for purposes of criticism, comment,  
74 news reporting, teaching (including multiple copies for classroom use), scholarship and research  
75 without permission of the copyright holder. However, nonprofit educational use does not  
76 automatically fall under fair use. If the reproduction is for one of the above purposes, a  
77 determination as to whether the reproduction is fair use must be made based upon four  
78 factors:

- 79 • The purpose and character of use (principally, whether for commercial or nonprofit  
80 educational use);
- 81 • The nature of the copyright-protected work;
- 82 • The amount and substantiality of the portion used; and
- 83 • The effect of the use being evaluated upon the potential market for or value of the  
84 copyright-protected work.

85 Fair use requires a thoughtful analysis and the law does not state exactly what uses of a  
86 copyrighted work will be considered fair uses under the law and may therefore be used  
87 without obtaining permission. As such, individuals who are not lawyers may often need to be  
88 interpreters of the law in everyday circumstances, and answers as to how much reproduction  
89 may be considered fair use often remain unclear. The bottom line is that fair use requires a  
90 very fact-specific analysis as to whether a particular use or reuse of a work may indeed be  
91 considered fair use. A fair use checklist is attached for use as a guide in determining whether or  
92 not a good faith claim of fair use may be made for a particular work.

## 5.4 Copyright Obligations of College Faculty, Staff, and Students

93 College faculty and staff wishing to use copyrighted materials are responsible for ensuring  
94 compliance with copyright law. This includes making a good faith determination as to whether  
95 use of a work falls under the rubrics of the fair use exemption. The University of Arkansas-  
96 Pulaski Technical College does not assume legal responsibility for any independent applications  
97 of copyright principles made by its faculty, staff or students that are not made in good faith.  
98 All good faith determinations which identify that the use exceeds fair use or for which there  
99 are other limitations applied by the copyright owners must result in obtaining permissions to  
100 use the individual works.

101 Students are expected individually, within the context of applicable College regulations, to  
 102 act responsibly and ethically by applying fair use principles to the completion of their  
 103 activities and projects. The College does not assume legal responsibility for violations of  
 104 applicable copyright law by students who are not employees of the College. Students who  
 105 are employees of the College, with the exception of those holding work-study or Graduate  
 106 Assistant positions, and who are acting in their capacity as employees are subject to all  
 107 provisions of this document relating to faculty and staff. Copyright infringement is a violation  
 108 of federal law with legal ramifications of infringement which can include fines that range  
 109 from \$200 to \$150,000 per infringement and/or prison.

110 Employees who willfully disregard this policy do so at their own risk and assume all liability  
 111 including the possibility of dismissal for persistent copyright infringements. If the Provost is  
 112 aware of copyright infringements by an employee, he/she shall counsel the infringer. If the  
 113 employee continues to infringe copyright laws, the Provost shall inform the Chancellor of the  
 114 continuing infringements. The Chancellor shall take appropriate steps to stop the illegal actions.  
 115 If the infringer refuses to stop the infringements, the Chancellor shall take appropriate steps to  
 116 terminate the employment of the persistent infringer.

117 For help in making a good faith determination of the applicability of fair use, you may contact  
 118 the Provost, if a member of Faculty, or the Chancellor if a Staff member.

119 Using library course reserves or creating legal course packs through the bookstore can be the  
 120 best way to minimize the risk of copyright infringement.

REQUIRED APPROVALS	NAME/SIGNATURE	DATE
Originator(s) Name(s)	UA-PTC Policy Review	Oct, 2018
Ratified by	Dr. Marla Strecker, Provost	Feb 1, 2019
Recommended by Chancellor (Signature)	Margaret Ellibee	March 1, 2019
UA Policy Alignment: 210.1		