



# SAN DIEGO COMMUNITY COLLEGE DISTRICT

CITY COLLEGE • MESA COLLEGE • MIRAMAR COLLEGE • CONTINUING EDUCATION

## DISTRICT GOVERNANCE COUNCIL

May 2, 2018

3:00 p.m. – Room 245

### AGENDA

- \*1.0 Review Minutes of April 18, 2018
- 2.0 Review of Board Agenda for May 10, 2018  
*(Tentative agenda pages will be distributed at the meeting)*
- 3.0 Additional Agenda Items
- 4.0 State Budget Update Carroll, Dowd
- 5.0 Threat Assessment Taskforce Update Neault
- 6.0 Human Resources Policy Review Surbrook
  - BP 7330 Communicable Disease
- \*7.0 SDCCD Copyright Guidelines Akers
- 8.0 Roundtable

#### \*Attachments

Next DGC MEETING scheduled: Wednesday, May 16, 2018 – 3:00 p.m.  
District Office – Room 245

*Visitors and observers are welcome. The District Governance Council (DGC) follows an open process and conducts open meetings. However, because of limited space, we ask that visitors sit in the extra chairs provided against the walls to leave room available at the table for voting DGC members. Your help is appreciated.*



# SAN DIEGO COMMUNITY COLLEGE DISTRICT

CITY COLLEGE • MESA COLLEGE • MIRAMAR COLLEGE • CONTINUING EDUCATION

## DISTRICT GOVERNANCE COUNCIL MINUTES

April 18, 2018

**Present:** Akers, Beresford, Bermodes, Bocaya, Bulger, Cassar, Catano (for Larson), Cortez, Dowd, Hubbard, Kovrig, Luster, Manis, McMahon, Murphy, Neault, Payne, Perigo, Ramsey (for Hsieh), Shabazz, Surbrook, Weinroth and Chairperson Executive Vice Chancellor Dowd

**Absent:** Carroll, Hsieh, Larson

**Guests:** Olivia Flores

### 1. **APPROVAL OF MINUTES**

The minutes of April 4, 2018, were approved.

### 2. **REVIEW OF BOARD AGENDA**

The agenda for the April 26, 2018, Board Meeting was opened for review by Executive Vice Chancellor Dowd. Each item was discussed and satisfied.

### 3. **STATE BUDGET UPDATE**

Executive Vice Chancellor Dowd reported that there are still many unknowns regarding the proposed funding formula that could go into effect July 1, 2018. She said that the next update will come when the Governor shares his proposed revisions on May 15.

### 4. **CAMPUS SOLUTIONS DEMONSTRATION**

Vice Chancellor Neault gave a demonstration of the student and faculty portals in Campus Solutions and answered members' questions. The portals are still in the testing phase and Dr. Neault asked for patience from all as the new system undergoes further testing and implementation.

### 5. **COMMUNICABLE DISEASE UPDATE**

Vice Chancellor Surbrook provided copies of BP 7330 – Communicable Disease, and the corresponding administrative procedure AP 7336 – Certificate of Freedom from Tuberculosis, for review. CE Academic Senate President Richard Weinroth requested additional language be added to BP 7330 Communicable Disease to clarify exemptions to the 60-day limit on TB assessment and examination requirements. VC Surbrook said he would send out revisions to address the request.

**6. SCHOOL SAFETY/EMERGENCY PLANS**

Miramar College Classified Senate President Terrie Hubbard opened discussion on school safety issues in light of the recent school shooting in Florida. Vice Chancellor Neault responded that she would bring an update about the District Threat Assessment Taskforce to the May 2 DGC meeting for further discussion.

**7. CALIFORNIA CATALYST FUND**

City College Academic Senate President Justin Akers shared information about an initiative to expand support for undocumented students and their families at the state's three public higher education systems: California Community Colleges, California State University, and the University of California.

**8. AREA D PLENARY REPORTS**

The Academic Senate Presidents reported that they attended the Area D plenary last week and gave reports on the meetings and various issues that they supported or opposed via resolutions.

Adjourned 4:44 p.m.

Chancellor's Office & Board of Trustees

# SDCCD Guidelines for Use of Copyrighted Material

## 2018 Revision

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2017-18 Revision Workgroup:  
 Lisa Burgert/Sean Flores (Mesa), Kats Gustafson (District), Roger Olson (Miramar), Sandra Pesce (City)

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## I. Introduction

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### A. Purpose and Scope

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These guidelines are meant to assist all San Diego Community College District (SDCCD) employees and students in making informed decisions regarding copyright as it applies to scholarly and educational activities. They fulfill the implementation requirement of SDCCD Board Policy 5750, are intended for general information only, and should not be considered a substitute for legal advice. It is the responsibility of all faculty, staff, students, and anyone using the facilities or resources of the SDCCD to read, to understand, and to follow these guidelines.

Copyright protects the authors, creators, and publishers of both published and unpublished original works, including literary, dramatic, musical, and artistic works. Books, newspapers, magazines, software, multimedia, audio recordings, dissertations, research papers, technology, scientific or technological developments, research data, photographs, as well as text, video, and images on the Internet are among the works covered under copyright law.

Since its passage in 1976, the Copyright Law has been amended numerous times by, for example, the Digital Millennium Copyright Act in 1998 and the Technology, Education, and Copyright Harmonization Act (“TEACH Act”) in 2002. These amendments outline the copyright requirements for digital content and online distance education addressed in these guidelines.

Copyright infringement occurs when a copyrighted work is reproduced, distributed, performed, publically displayed, or made into a derivative work without the permission of the copyright holder. A copyright notice is not required for works to be protected. These guidelines will address when it is or is not necessary to obtain authorization to use intellectual property.

### B. District Compliance Responsibility

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Per Board Policy 5750, SDCCD acknowledges and abides by all applicable intellectual property laws, including but not limited federal copyright law, Title 17 of the U.S. Code as amended at <http://www.copyright.gov/title17>. SDCCD expects that all individuals employed at the district, enrolled in the district or colleges, and/or using the facilities or resources of the district or colleges shall do the same.

In addition to issuing and educating the SDCCD community regarding this policy and guidelines, the SDCCD will, among other things, ensure that every photocopy machine, printer, and other equipment capable of creating copies shall include effective signage incorporating the following text:

Notice: The copyright law of the U.S. (Title 17 of the U.S. Code) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.

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### C. Consequences for Copyright Infringement

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The Copyright Act provides for the copyright owner to recover damages for unauthorized use of the owner's works. These damages may include the profits resulting from the infringement, or statutory damages ranging from \$750 to \$30,000 per willful infringement, as well as legal fees. <https://www.copyright.gov/title17/92chap5.html>.

## II. Using Copyrighted Material

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“Copyright is a form of protection provided by the laws of the United States to the authors of ‘original works of authorship’ that are fixed in a tangible form of expression. ... Copyright protection in the United States exists automatically from the moment the original work of authorship is fixed.” (Circular 1, U.S. Copyright Office)

Copyrighted materials may or may not have markings to indicate their status. Use of copyrighted materials may or may not require permission. See below for guidelines on obtaining permission when it is required, and for an overview of the exemptions that do not require permission.

### A. When Permission is Required: How to Get Permission

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The law does not recognize a “best efforts to obtain copyright” exception, even if it is difficult, time-consuming, or expensive to locate the copyright owner. The process of granting permission requires time to check the status of the copyright and evaluate the nature of the request. It is advisable, therefore, to allow enough lead time to obtain permission before the materials are needed.

One of the simplest ways to obtain permission is through the Copyright Clearance Center (CCC), which has the right to grant permission and collect fees for rights for certain publications. CCC’s Pay-Per-Use Services provide a quick and-easy way for faculty, students, and staff at colleges to secure permissions to use and share content. Search by title or ISBN at [www.copyright.com](http://www.copyright.com).

In cases where the CCC does not have the legal rights to obtain copyright clearance, permission must be obtained directly from the copyright holder (see sample draft letter in appendix).

### B. When Permission is Not Required: Three Exemptions

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There are three exemptions from the permission requirement: fair use exemption, library exemption, and instruction exemption. This section will offer a brief explanation of each, as well as some examples by materials format and by intended use.

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## 1. Fair Use Exemption

Some copyrighted works may be used without permission under circumstances deemed “fair use.” Section 107 of the United States Copyright Act lists four factors to help judges determine when content usage may be considered “fair use:”

The **purpose and character** of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes. However, not all educational uses are fair use.

The **nature** of the copyrighted work. Use of a purely factual work is more likely to be considered fair use than use of someone’s creative work.

The **amount and substantiality** of the portion used in relation to the copyright protected work as a whole. There are no set page counts or percentages that define the boundaries of fair use. Courts exercise common-sense judgment about whether what is being used is too much of — or so important to — the original overall work as to be beyond the scope of fair use.

The **effect** of the use on the potential market for or value of the copyright protected work. This factor looks at whether the nature of the use competes with or diminishes the potential market for the form of use that the copyright holder is already employing, or can reasonably be expected soon to employ, in order to make money for itself through licensing.

If it is unclear whether a particular use is permitted under the fair use doctrine, consider obtaining permission from the copyright owner to use the work.

The fair use provision is intentionally broad and flexible. It requires an analysis that weighs and balances the four factors based on the particular facts of an individual situation. SDCCD employees and students are encouraged to use a fair use evaluator tool to determine fair use. One such tool is: <http://librarycopyright.net/resources/fairuse/index.php>. Although a fair use evaluator tool does not guarantee legal protection from copyright infringement claims, it will help determine whether fair use applies to the material under the U.S. Copyright Code. Furthermore, it will provide a time-stamped, PDF document which could prove valuable, if ever a copyright holder claimed infringement.

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## 2. Library Exemption

Copyright law grants exceptions to libraries for archiving lost, stolen, damaged, or deteriorating works; and for making copies for library patrons, or for other libraries' patrons (interlibrary loan).

## 3. Instruction Exemption

Educators have, with publishers, developed the following guidelines, which allow faculty to distribute copyrighted materials (i.e. workbook sections, textbook chapters; does not apply to journal articles) to students in a class without the publisher's prior permission.

The distribution of materials practices of a faculty should not have a significant detrimental impact on the market for the copyrighted work (17 U.S.C. §107(4)). Materials may be distributed to students under the following conditions:

- Distribution of the same material does not occur every semester
- Only one copy is distributed for each student and it must become the student's property
- Material must include a copyright notice on the first page of the portion of the material (i.e., © 2017 by Mary Brown). See Section IV Attribution.
- If a print copy is provided students may not be assessed a fee beyond the actual cost of printing.

## C. Typical Examples of Educational Uses of Copyrighted Works

### 1. Examples By Format (Physical and Electronic)

It is advisable to consult with a librarian on the work to be used and how it will be used. The table below is a sample of educational uses and is not intended to be exhaustive. (Table reproduced and adapted from "Copyright and Fair Use Guidelines for Teachers," by Hall Davidson, <http://www.halldavidson.net/copyrightTEACH.pdf>). For more comprehensive information see Circular 21 – "Reproduction of Copyrighted Works by Educators and Librarians" (U.S. Copyright Office).

Format	Specifics	What you can do	Fine print (not exhaustive)
Short Text	Poem less than 250 words; 250 word excerpt of poem	Faculty may make multiple copies for classroom use and incorporate	Copies may be made only from legally acquired originals; Only one

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	greater than 250 words; Articles, stories, or essays less than 2,500 words; 2 pages (max) from an illustrated work less than 2,500 words	into multimedia for teaching classes; Students may incorporate text into multimedia projects; [See Instruction Exemption IIA3]	copy allowed per student; Spontaneity “at the instance and inspiration of the teacher”; Do not create anthologies; Consumables such as workbooks may not be copied. [See Circular 21, pp. 6&7]
Longer Text	1 article per journal; 1 chapter per book; 10% to 20 % of a book	Faculty may make multiple copies for classroom use [See Instruction Exemption IIA3]	Same as for Short Text
Music	Vinyl; Cassette tapes; CDs; Digital files; Audio clips on the web	Faculty may copy music for academic purposes other than performances. In Learning Management Systems up to 10%, but no more than 30 seconds with no change to basic melody or fundamental character. [See University of Rhode Island “Fair Use and Copyright” Lib Guide for extensive details]	Performances limited as follows: excerpts of sheet music may be copied only if out of print; student performances may be recorded only for faculty or institutional evaluation or student’s portfolio; sound recordings may be copied once for classroom or reserve use. Sheet music may be copied in its entirety for an emergency when purchased copies are not available for an imminent performance provided that purchased replacements are substituted in due course.
Images	Photograph; Illustration; Collections of photographs; Collections of illustrations	Single works may be used in their entirety, but not more than 5 images by a single artist or photographer; From a collection, not more than 15 images or 10% (whichever is less).	Although older illustrations may be in the public domain and don’t need permission to be used, sometimes they’re part of a copyrighted collection.
Video (Instructional Use)	Videos or DVDs; Video clips from the Internet (You Tube, TED Talks); Streaming Videos (library subscription)	Show and play (perform) in a face to face classroom; Transmit over the internet as part of a class sessions; Transmit over the internet as part of a class session or class enhancement	The material must be legitimately acquired. Use should be instructional, not for entertainment or reward. Archival copy can be made provided a suitable replacement is unavailable in a viable format; for Learning Management Systems technological measures must be in place to prevent unauthorized access or copying.
Video (for integration into multi-media or video projects)	Videos or DVDs; Video clips from the Internet (You Tube, TED Talks); Streaming Videos (library subscription)	Students “may use portions of lawfully acquired copyright works in their academic multimedia,” defined as 10% or 3 minutes (whichever is less) of “motion media.”	The material must be legitimately acquired. Copyright works included in multimedia projects must give proper attribution to copyright holder.

## 2. Examples By Use

### a. Classroom (including Learning Management System)

The classroom, including the Learning Management System, offers the capability to provide controlled access to class material.

### *i. Electronic Library Resources for Classroom Use*

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The District's libraries provide access to a number of databases by subscription agreement with vendors. In many cases the license agreements with the vendors or publishers of these materials specifically address whether or not content may be downloaded and reposted. Since the answer to this question is uneven and there are many licenses to consider, best practice is to link to the database or the electronic journal content, rather than downloading the document and uploading it for online access to a LMS.

### *ii. Single Copy for Classroom Use*

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Because of the uncertainties inherent in the general fair use analysis, there have been a number of efforts over the years to develop more concrete guidelines for specific common situations. Under one such set of guidelines negotiated by representatives from higher education and the publishing industry, it is generally accepted that faculty may make single copies of the following for use in their scholarly research, teaching, or preparation for teaching:

- A chapter from a book
- An article from a periodical or newspaper
- A short story, short essay, or short poem
- A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper

These guidelines represent the minimum of what is permissible, not the outer limits of fair use. Copying in excess of these guidelines may be a fair use if it meets the fair use test. Also keep in mind that while these guidelines do not specifically discuss copying by students, it generally has been assumed that they have comparable rights under fair use.

### *iii. Multiple Copies for Classroom Use*

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Under a similar set of negotiated guidelines, it also is generally considered to be fair use for faculty to make copies of copyrighted material and distribute them to their students for classroom use and discussion under the following conditions:

- The number of copies made of any given work may not exceed the number of students in the course.
- The copies must be made "at the instance and inspiration of the individual teacher."
- The inspiration to use the work and "the moment of maximum teaching effectiveness" with respect to that work must be "so close in time that it would be unreasonable to expect a timely reply to a request for permission."
- Each copy must include a notice of copyright.
- Any charge to the students may not exceed the actual cost of copying.
- The amount copied from any given work may not exceed the following:

**Poetry:** (a) a complete poem if less than 250 words and if printed on not more than two pages or (b) an excerpt of not more than 250 words from a longer poem (though either limit may be expanded to permit the completion of an unfinished line).

**Prose:** (a) a complete article, story, or essay consisting of less than 2,500 words or (b) an excerpt of not more than 1,000 words or 10% of any other prose work, whichever is less,

but in any event a minimum of 500 words (though either limit may be expanded to permit the completion of an unfinished paragraph).

**Illustration:** a single chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.

**Special works** combining words and illustration, and consisting of fewer than 2,500 words in their entirety: an excerpt of up to two pages, but no more than 10% of the words.

- The copying of any given item must be for only a single course and may not be repeated by the faculty from term to term.
- The copying must be limited to one short poem, article, story, or essay, or two excerpts from the same author and three from the same collective work or periodical volume (other than current news periodicals and newspapers) during one class term.
- No more than nine items in total may be copied for one course during one class term.
- "Consumables" such as workbooks, exercises, and tests may not be copied.
- Copying may not be used to create or substitute for anthologies, compilations, or other such collective works.

As with the single copy guidelines, these guidelines represent the minimum of what is permissible, not the outer limits of fair use. Copying in excess of these guidelines should be **based on** the fair use factors (see Section II.B.1).

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#### *b. Library Reserves*

Faculty intending to place items (books or media) on library reserve are responsible for ensuring copyright compliance for materials. A fair use evaluation tool (<http://librarycopyright.net/resources/fairuse/index.php>) should be used and documentation of the results should accompany the reserve request. Photocopies of entire copyrighted textbooks are not permitted on reserve. Any complex questions concerning whether a particular use constitutes fair use should be directed to a librarian, [who may forward it to legal counsel](#). Course reserve materials should be removed at the end of the academic term. Items cannot be placed on permanent reserve, in order to comply with federal copyright law Title 17 of the U.S. Code.

#### *c. Recording of Events*

Permission to record presentations by registered students, faculty, and staff is assumed if the recording is to be used for archival or classroom use only. Written permission of the presenter or sponsor is required for presentations made by any other individual or group regardless of the recording's purpose. One archival copy of non-classroom events using copyrighted materials may be produced if the presenter has obtained clearance from the copyright holder. Non-archival copies of presentations may only be produced if written permission allowing the duplication of the material has been obtained in advance from all.

#### *d. Public Performance*

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Public performance licenses must be obtained for non-classroom performances. This legal requirement applies regardless of whether an admission fee is charged, whether the institution or organization is commercial or non-profit, or whether a federal or state agency is involved.

*e. First Sale*

The owner of lawfully obtained copyrighted content may dispose (lend, rent, sell, give-away, or throw away) that copy without permission of the copyright owner. This exception does not apply to recorded music, and software licenses typically prohibit the use of the first-sale doctrine.

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### III. Using Works in the Public Domain and Creative Commons

For those works not covered by U.S. copyright law, use and sharing rules may vary widely. Works may fall within the completely free public domain or be covered by Creative Commons licenses that reserve some rights.

#### A. Public Domain

All U.S. government publications and all works published prior to 1923 are considered public domain and are no longer subject to copyright protection. These works may be used freely by anyone, in any way, and for any purpose, educational or otherwise (at least insofar as copyright is concerned).

Works published after 1923 are subject to variations of copyright expiration based on registration dates, so use this simple tool to determine if an item is still protected by copyright: <http://librarycopyright.net/resources/digitalslider/index.html>. In general, works published in 1923 will fall into the public domain starting in 2019, then in 2020 works published in 1924 will expire, and so on. For works published by a single author after 1977, the copyright will not expire until 70 years after the author's death. If a work was written by several authors and published after 1977, it will not expire until 70 years after the last surviving author dies.

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**Directions:**

- Set arrow at correct date
- Read information in windows
- Mouse-over any [notes] or asterisks [\*] for clarifying information

**Is it Protected by Copyright?**  
For works first published in the U.S.A.\*

**No** Permission Needed?

**Copyright Status/Term** **In Public Domain\***

**Date of First Publication**

- Before 1923**
- After 1922 & Before 1978**  
If published without © notice
- After 1922 & Before 1964**  
If published with © notice, but not renewed after 28 years
- After 1922 & Before 1964**  
If published with © notice & renewed after 28 years
- After 1963 & Before 1978**  
If published with © notice
- After 1977 & Before 2003**  
Created (unpublished) before 1978 & first published before January 1, 2003
- After 1977 & Before March 1, 1989**  
If published without © notice & without subsequent registration
- After 1977 & Before March 1, 1989**  
If published without © notice but registered within 5 years; or published with © notice
- On or after March 1, 1989**  
Published with or without © notice
- Published after 2002**  
Created before 1978 and author died more than 70 years ago

**Unpublished Works (date of creation)**

- Created by Individual or Joint Authors**
- Created under Corporate Authorship**







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## B. Creative Commons Licenses

Creative Commons is a global non-profit organization that provides copyright licenses with sharing restrictions ranging from “most free” to “least free.” It is important to understand the differences – some allow free sharing while others do not – see the table below for a breakdown. Consider sharing your own materials with a Creative Commons license.

License	Attribution	What you can do
	Attribution CC BY	This license lets others distribute, remix, tweak, and build upon your work, even commercially, as long as they credit you for the original creation. This is the most accommodating of licenses offered. Recommended for maximum dissemination and use of licensed materials.
	Attribution – ShareAlike CC BY-SA	This license lets others remix, tweak, and build upon your work even for commercial purposes, as long as they credit you and license their new creations under the identical terms. This license is often compared to “copyleft” free and open source software licenses. All new works based on yours will carry the same license, so any derivatives will also allow commercial use. This is the license used by Wikipedia, and is recommended for materials that would benefit from incorporating content from Wikipedia and similarly licensed projects.
	Attribution – NoDerivs CC BY-ND	This license allows for redistribution, commercial and non-commercial, as long as it is passed along unchanged and in whole, with credit to you.
	Attribution – NonCommercial CC BY-NC	This license lets others remix, tweak, and build upon your work non-commercially, and although their new works must also acknowledge you and be non-commercial, they don't have to license their derivative works on the same terms.
	Attribution – NonCommercial- ShareAlike CC BY-NC-SA	This license lets others remix, tweak, and build upon your work non-commercially, as long as they credit you and license their new creations under the identical terms.
	Attribution- NonCommercial- NoDerivs CC BY-NC-ND	This license is the most restrictive of our six main licenses, only allowing others to download your works and share them with others as long as they credit you, but they can't change them in any way or use them commercially.

## IV. Providing Attribution – How to Give Credit to the Author

There are many ways to give credit to an author. Below are examples for copyrighted works and for those that fall into the public domain or are covered by a Creative Commons license.

### A. For Copyrighted Works

Per the U.S. copyright law, Title 17 of the U.S. Code, the material must include a notice of copyright on the first page of material (for example, "© 2012 by Ysabelle Garcia"). It is recommended that a complete citation of the work be provided for full attribution. Citation

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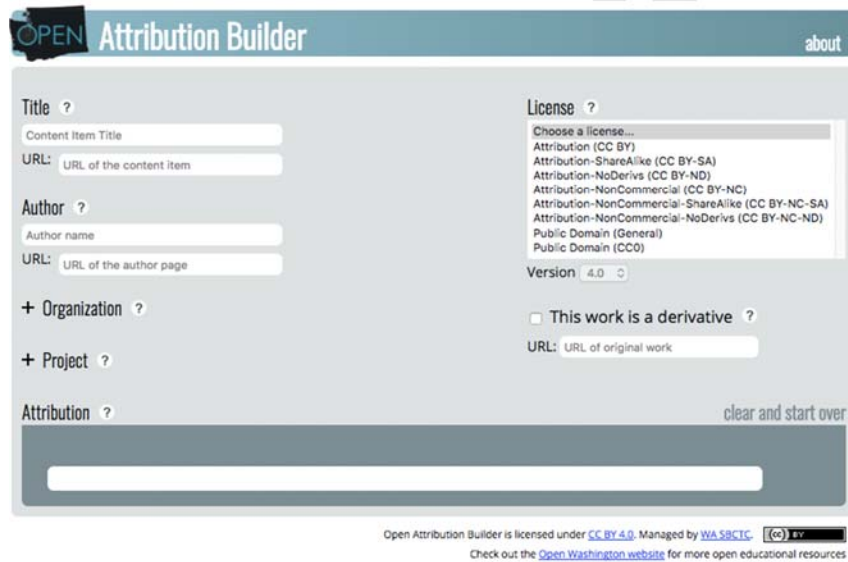
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builders for style guides like MLA and APA will work for this purpose: i.e. Noodle Bib, BibMe, EndNote, RefMe, etc.

### B. For Works in the Public Domain and for Creative Commons Licensed Works

Numerous online tools will format an attribution notice using descriptive information that you provide about an item licensed under Creative Commons or in the public domain. These tools are similar to citation builders for style guides like MLA and APA, and are helpful for creating consistent citations in open educational resources (OER). An example of one such tool is: <http://www.openwa.org/open-attrib-builder/>



## V. Making Your Own Materials: Ownership of Intellectual Property

### A. Author/Creator as Owner

The author or creator of intellectual property is typically the owner of the intellectual property unless the intellectual property is a work “made for hire” (see section V.B. below). Copyright on works wholly created by SDCCD faculty members on their own time, outside of their assigned work schedule, without any use of District equipment and/or resources and intended for non-District use, would be held by the author/creator.

See <http://hr.sdccd.edu/docs/employee%20relations/Collective%20Bargaining%20Agreements/Faculty.pdf>

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## B. Works Made for Hire (SDCCD faculty)

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In general, a work made for hire is one created by an employee within the scope of his/her employment, or as directed for inclusion in a larger work as part of a written agreement to do so (U.S. Code Title 17, Section 101). Works made by SDCCD faculty: Article XXVI of the San Diego Community College District AFT Guild's Faculty Collective Bargaining Agreement identifies the owners of the copyrights to certain works that may be created by faculty members, and identifies the uses that may be made of those works by faculty members and the District. See also "Work for Hire" definition in the Appendix of this document.

See <http://hr.sdccd.edu/docs/employee%20relations/Collective%20Bargaining%20Agreements/Faculty.pdf>

## VI. Appendix

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### A. Definitions

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**Attribution** -- An acknowledgement crediting the author of a work.

**Classroom** – A physical or virtual environment where instruction takes place.

**Copyright** – The set of exclusive legal rights that authors have over their works for a limited period of time. Copyright protection is based upon Article I, Section 8 of the United States Constitution which provides in pertinent part: "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 Copyright Act of 1976 and its amendments implement this provision of the Constitution and extend protection to eight categories of "works of authorship":

- literary works (including not only books, articles and similar works, but also software programs and their accompanying documentation)
- musical works, including any accompanying words
- dramatic works, including any accompanying music
- pantomimes and choreographic works
- pictorial, graphic and sculptural works
- motion pictures and other audiovisual works
- sound recordings
- architectural works

**Copyright Infringement** – A violation that occurs when a copyrighted work is reproduced, distributed, performed, publicly displayed, or made into a derivative work without the permission of the copyright owner.

**Creative Commons (CC) Licensing** - "CC licenses are copyright licenses, and depend on the existence of copyright to work. CC licenses are legal tools that creators and other rights holders can use to offer certain usage rights to the public, while reserving other rights."  
[\[https://creativecommons.org/faq\]](https://creativecommons.org/faq)



Fair Use – The fair use doctrine provides for limited use of copyrighted materials for educational and research purposes without permission from the copyright owner.

Intellectual Property – Includes, but is not limited to, any works of authorship, computer software, invention, discovery, creation, know-how, trade secret, technology, scientific or technological development, research data, regardless of whether subject to legal protection such as copyright.

Public Domain - The status of publications, products, and processes that are not protected by copyright; for example, materials on which the copyright has expired and works created by the federal government or a state government. All original sources published prior to 1923 are in the public domain. Refer to <http://librarycopyright.net/resources/digitalslider/index.html>

Public Performance – A public performance occurs when there is a performance “at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered,” or when one “transmit[s] or otherwise communicate[s] a performance” to such a place, 17 U.S.C. § 101. This legal requirement applies regardless of whether an admission fee is charged, whether the institution or organization is commercial or non-profit, or whether a federal or state agency is involved.

Work Made for Hire – Pursuant to Section 101 of Title 17 of the U.S. Code, work for hire is defined as “(1) a work prepared by an employee within the scope of his or her employment; or (2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work\*, as a compilation, as an instructional text\*\*, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument that the work shall be considered a work made for hire.”

\*Supplementary work is “a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.”

\*\*Instructional Text is a “literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.”

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## B. Sample Permission Letter

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The following sample, a “Letter for Requesting Copyright Permission” was obtained from Duke University <https://blogs.library.duke.edu/scholcomm/files/2007/02/sample-letter-requesting-copyright-permission.doc>

[Date]

[Rights holder name and address]

Dear Permissions Editor [Insert name, if known]:

I am in the process of creating [Describe project]. I would like your permission to include the following material in this project:

[Citation of material for which permission is sought, specifying exactly what material would be used]

The [Name of Project] will be used [Describe how the project and material will be used].

It will be available to [Specify who the users will be and how they will gain access, including any charges or fees involved].

If you do not control the copyright on all of the above mentioned material, I would appreciate any contact information you can give me regarding the proper rights holder(s), including current address(es). Otherwise, your permission confirms that you hold the right to grant the permission requested here.

Permission includes non-exclusive world rights in all languages to use the material and will not limit any future publications-including future editions and revisions-by you or others authorized by you.

I would greatly appreciate your consent to my request. If you require any additional information, please do not hesitate to contact me. I can be reached at:

[Your contact information]

A duplicate copy of this request has been provided for your records. If you agree with the terms as described above, please sign the release form below and send one copy with the self-addressed return envelope I have provided.

Sincerely,

[Signature]

[Printed Name]

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Permission granted for the use of the material as described above:

Agreed to: \_\_\_\_\_ Name & Title: \_\_\_\_\_

Company/Affiliation: \_\_\_\_\_ Date: \_\_\_\_\_

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### C. Additional Resources

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- Attribution Builder (Open Washington) -- <http://www.openwa.org/open-attrib-builder/>
- Copyright and Intellectual Property Policy 2009 (Cape Cod Community College) – <https://www.capecod.edu/files/policies/copyright-policy.pdf>
- Copyright and Fair Use: The Lawsuits (California State University Long Beach) <https://csulb.libguides.com/c.php?g=39326&p=250444>
- Circular 1: Copyright Basics (U.S. Copyright Office) -- <https://www.copyright.gov/circs/circ01.pdf>
- Circular 21: Reproduction of Copyrighted Works by Educators and Librarians (U.S. Copyright Office) -- <https://www.copyright.gov/circs/circ21.pdf>
- Copyright and Fair Use Guidelines for Teachers (Hall Davidson) – <http://www.halldavidson.net/copyrightTEACH.pdf>
- Copyright Clearance Center -- <http://www.copyright.com/>
- Copyright Protection Slider -- <http://librarycopyright.net/resources/digitalslider/index.html>
- Creative Commons Licensing -- <https://creativecommons.org/licenses/>
- Digital Millennium Copyright Act -- <https://www.copyright.gov/legislation/dmca.pdf>
- Fair Use Evaluator Tool -- <http://librarycopyright.net/resources/fairuse/index.php>
- Fair Use and Copyright for Online Education (University of Rhode Island) – <https://uri.libguides.com/fairuse/copyright>
- Permission Letter (Duke University) -- <https://blogs.library.duke.edu/scholcomm/files/2007/02/sample-letter-requesting-copyright-permission.doc>
- SDCCD Board Policy 5750 – <https://www.sdccd.edu/docs/District/policies/Instructional%20Services/BP%205750.pdf>
- SDCCD Faculty Collective Bargaining Agreement (AFT) -- <http://hr.sdccd.edu/docs/employee%20relations/Collective%20Bargaining%20Agreements/Faculty.pdf>
- TEACH Act explanation (American Library Association) – <http://www.ala.org/advocacy/copyright/teachact>
- United States Copyright Law -- <https://www.copyright.gov/title17/>

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