

College Policy 3.20

Fair Use Policy

Instructors may reproduce copyrighted works for the classroom use and for research without securing permission and without paying royalties when the circumstances amount to what the law calls "fair use."

Part 1. "Fair Use" under current copyright laws

In determining whether the use is a "fair use" the law requires consideration of the following factors (17 U.S.C. sec. 107):

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purpose;
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 use upon the potential market for or value of the copyrighted work

The guidelines in this policy discuss the boundaries for fair use of photocopied material. Fair use cannot always be expressed in numbers - either the number of pages copied or the number of copies distributed. Therefore, faculty should weigh the various factors above in A-D to determine whether the intended use of photocopied copyrighted materials is within the spirit of the fair use doctrine. Faculty should secure permission from the copyright owner unless the intended use is clearly permissible under fair use.

Part 2. Guidelines for determining "fair use"

The following guidelines are based in part on the Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions, which was developed by an ad hoc committee of educators and publishers. These guidelines should be used to judge if intended photocopying of copyrighted materials constitutes fair use in teaching and research.

Subpart A. Single copying for teachers

A single copy may be made of any of the following by or for a teacher at his or her individual request for scholarly research or for use in teaching or preparing to teach a class:

1. A chapter from a book;
2. An article from a periodical or newspaper;
3. A short story, short essay or short poem, whether or not from a collective work;
4. A chart, graph, diagram, cartoon, or picture from a book, periodical, or newspaper.

Subpart B. 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 instructor teaching the course for classroom use or discussion provided that:

1. Copying does not substantially exceed the test of brevity as defined below; and
2. Copying meets the cumulative effect test as defined below; and
3. Each copy includes a notice of copyright.

Subpart C. Definitions

Brevity

- Poetry: A complete poem if less than 250 words or, from a longer poem, an excerpt of not more than 250 words.
- Prose: Either a complete article, story or essay of less than 2,500 words or an excerpt of not more than 2,500 words from any prose work.
- Illustration: One chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue. In some cases, such illustrations are copyrighted individually and cannot be reproduced under fair use.

Cumulative Effect

- The copying of the material is for only one course per class term of the instructor for whom the copies are made.
- 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.
- There shall not be more than nine instances of such multiple copying for one course during one class term.
- The limitations stated in (1) and (2) above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.
- Notwithstanding any of the above, the following shall be prohibited:
 1. There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These works include workbooks, exercises, standardized tests and test booklets, answer sheets, and like consumable materials.
 2. Copyright shall not:
 - substitute for the purchase of books or periodicals;
 - be directed by higher authority;
 - no charge shall be made to the student beyond the actual cost of photocopying.

Part 4. Materials copied and sold in the bookstore

All materials copied and sold to students through the college's bookstore will be considered copying for commercial use and will be subject to permission from copyright owners.

Part 5. Situations not specifically covered by guidelines

The doctrine of "fair use" may permit reproduction of copyrighted works in excess of the word limit restriction specified in the guides. Since this is an area of unclear legal definition, faculty members should use caution and discretion in such copying and should seek permission to copy through the college's textbook buyer before copying outside of the limits enumerated in these guidelines. Any questions regarding the application of the guidelines in specific cases, whether a work is covered under copyright protection should be referred to the Director of Legal and Administrative Affairs.

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