

## **Presidential Directive 6-1983-1**

### **COPYRIGHT LAW AND EDUCATIONAL FAIR USE**

- 1. General Information.** On October 19, 1976, Congress passed Public Law 94-553, 17 U.S.C. 101 *et. seq.*, which significantly revised the Copyright Act of 1909. Attendant to this revision, "Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with Respect to Books and Periodicals" were formulated to provide guidance with respect to "fair use": that term used to describe those instances in which an educator need not secure prior permission from the copyright holder in order to reproduce copyrighted materials.

Section 2 of this directive outlines the minimum guidelines which qualify as "fair use", and should be referred to when an educator wishes to make unauthorized reproductions of copyrighted material.

Section 3 of this directive describes manners in which educators may obtain permission to reproduce a more significant portion of copyrighted material than that which qualifies as "fair use" under the guidelines established by Section 2 hereof.

- 2. Minimum Guidelines For Reproduction.**

- A. Guidelines for the Reproduction of Books and Periodicals**

- (1) **SINGLE COPYING FOR FACULTY MEMBERS.** A single copy may be made of any of the following by or for a faculty member at his individual request for his scholarly research or use in teaching or preparation to teach a class: a chapter from a book; and article from a periodical or from a book; an article from a periodical or newspaper; a short story, short essay or short poem, whether or not from a collective work; or a char, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

- (2) **MULTIPLE COPIES FOR CLASSROOM USE.** Multiple copies (not in any event to exceed more than one copy per student in each course) may be made by or for the faculty member instructing the course, **PROVIDED** that: the copying meets the tests of brevity and spontaneity as defined below; the copying meets the cumulative effect test as defined below; and each copy includes the notice of copyright of the work being reproduced.

- a. Brevity

- (I) Prose: (a) Either a complete article, story or essay of less than 2,500 words; or (b) and excerpt from any prose work of not

more than 1,000 words or 10% of the work, whichever isles; but in any event a minimum of 500 words.

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

(iii) Illustrations: 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 for children or for a more general audience an which are shorter than 2,500 words in their entirety may not be reproduced in their entirety; however, and excerpt comprising 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. Spontaneity

(i) The copying is at the instance and inspiration of the individual faculty member.

(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. Cumulative Effect

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

(ii) During one course term, not more than one short poem, article, story, essay or two experts of the same may be copied from the same author; nor more than three from the same collective work or periodical volume.

(iii) There shall not be more than nine instances of such multiple copying for one course during the course term.

(iv) The limitations stated in "ii" and "iii" above shall not apply to current news periodicals, newspapers, and current news sections of periodicals.

(3) PROHIBITIONS. Notwithstanding any of the above guidelines relating to reproduction of books and periodicals, the following shall be prohibited:

- a. Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such to occur whether copies of various works or excerpts therefore are accumulated, or are reproduced and used separately.
- b. There shall 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, test booklets and answer sheets, and similar consumable material.
- c. Copying shall not substitute for the purchase of books, publishers' reprints or periodicals; shall not be directed by higher authority; nor shall it be repeated with respect to the same item by the same teacher from term to term.
- d. No charge shall be made to the student beyond the actual cost of the photocopying.

B. Guidelines for the Reproduction of Music

(1) PERMISSIBLE INSTANCES OF REPRODUCTION. Multiple or single copies of the type described below may be make by or for a faculty member instructing a course or conducting a performance.

- a. Emergency copying to replace purchased copies which, for any reason, are not available for an imminent performance, PROVIDED that purchased copies shall be substituted in due course.
- b. For academic purposes other than performance, single or multiple copies of excerpts of works may be make, PROVIDED that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a section, movement or aria; but in no case shall such copying exceed more than 10% of the whole work, nor shall it exceed more than one copy per student in each course.
- 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, remain unaltered, or that no lyrics are added if none than 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 University of Wyoming or the individual faculty member.
- 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 the University of Wyoming or an individual faculty member of the purpose of constructing aural exercises or examinations, and may be retained by the University of Wyoming or individual faculty member.

(2) **PROHIBITIONS.** Notwithstanding any of the above guidelines relating to the reproduction of music, the following shall be prohibited:

- a. Copying to create, 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 an similar material.
- c. Copying for the purpose of performance, except as authorized above.
- d. Copying for the purpose of substituting for the purchase of music, except as authorized above.
- e. Copying without inclusion of the copyright notice which appears on the printed copy.

**C. Guidelines for Off-Air Recording of Broadcast Programming**

Guidelines have been issued which permit off-air video recording and the use of broadcast transmission of educational purposes in certain narrowly defined circumstances. The purpose of the guidelines is to restrict the use and period of retention of the recorded programs so that taped copies may not be used as substitutes for the purchase or license of copyrighted programming for educational purposes should consult with University legal counsel.

- 3. Obtaining Permission for Reproducing Materials.** If an educator desires to reproduce copyrighted materials in amounts which exceed the minimum guidelines established by Sections 1 and 2 hereof, he may:

- A. Consult with University legal counsel; and/or
- B. Make written application to the copyright holder for permission to reproduce the copyrighted material. The Association of American Publishers suggests that the following information be included in such a request in order to expedite the process of securing authorization:
  - (1) Title, author and/or editor, and edition of materials to be duplicated.
  - (2) Exact material to be used, including amount, page numbers, chapters and, if possible, an 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 the material is to be sold.
  - (7) Type of reprint (ditto, photocopy, offset, typeset).

The request should be sent, together with a self-addressed, stamped return envelope, to the permissions department of the publisher in question. If the address of the publisher does not appear within the material to be reproduced, it may be obtained from **The Literary Marketplace** (for books), or **Ulrich's International Periodicals** (for journals), both of which are published by the R.R. Bowker Company, and are available in the reserve section of Coe Library. For purposes of proof, and to define the scope of the permission granted, it is important that the copyright holder's permission to reproduce be communicated in writing.

- 4. **Responsibility**. The responsibility for administration of this Directive rests with the University Legal Office. Inquiries relating to these Guidelines should be addressed to the University Legal Office.

Approved August 15, 1983