

IV.B.

PHOTOCOPYING AND COPYRIGHT

The purpose of the following guidelines is to state the minimum and not the maximum standard of educational fair use under Section 107 of H.R. 2223. The parties agree that the conditions determining the extent of permissible copying for educational purposes may change in the future; that certain types of copying permitted under these guidelines may not be permissible in the future, and conversely that in the future other types of copying not permitted under these guidelines may be permissible under revised guidelines.

Moreover, the following statement of guidelines is not intended to limit the types of copying permitted under the standard of fair use under judicial decision and which are stated in Section 107 of the Copyright Revision Bill. There may be instances in which copying which does not fall within the guidelines stated below, may nonetheless be permitted under the criteria of fair use.

Guidelines for Photocopying

I. 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 his or her scholarly research or use in teaching or preparation to teach a class:

- A. A chapter from a book.
- B. An article from a periodical or newspaper.
- C. A short story, short essay or short poem, whether or not from a collective work.
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

II. 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 teacher giving the course for classroom use or discussion; provided that

- A. The copying meets the test of brevity and spontaneity as defined below;
and
- B. Meets the cumulative effect test as defined below; and
- C. Each copy includes a notice of copyright.

DEFINITIONS:

Brevity:

1. Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a long poem, an excerpt of not more than 250 words.
2. Prose: (a) Either a graphic article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

(Each of the numerical limits stated in "1" and "2" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)

3. Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
4. "Special" works: Certain works of poetry, prose, or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience (all short of 2,500 words in their entirety). Paragraph "2" above notwithstanding such "special works" may be reproduced in their entirety; however, an 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.

Spontaneity:

1. The copying is at the instance and inspiration of the individual teacher, and
2. 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.

Cumulative Effect:

3. The copying of the material is for only one course in the school in which the copies are made.
4. 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.

5. There shall not be more than nine instances of such multiple copying for one course during one class term.

(The limitations stated in "2" and "3" above shall not apply in current news periodicals and newspapers and current news sections of other periodicals.)

II. PROHIBITIONS AS TO I AND II ABOVE:

Notwithstanding any of the above, 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 replacement or substitution may occur whether copies of various works or excerpts there from 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 and textbooks and answer sheets and like consumable material.
- c. Copying shall not:
 - a. substitute for the purchase of books, published reports or periodicals.
 - b. be directed by higher authority.
 - c. be repeated with respect to the same item by the same teacher from term to term.
1. No charge shall be made to the student beyond the actual cost of the photocopying.

NOTE: The above is the text of an agreement entered into on March 19, 1976 by the Ad Hoc Committee on Copy Right Law Revision, the Author-Published Group Authors League of America, and the Association of American Publishers, Inc.

Guidelines for Computer Programs

The owner of a copy of a program may make another copy or adoption of that program in two instances:

1. When it is a necessary step to utilize that program in conjunction with a machine, i.e., to translate from one computer language to another or convert from one disk size to another.
2. When it is for archival purposes.

Guidelines for Videotapes

The purpose of establishing these guidelines is to provide standards for both owners and users of copyrighted television programs.

1. These guidelines are applicable to off-air recording by non-profit educational institutions.
2. A broadcast program may be recorded off-air simultaneously with broadcast transmission and retained by an educational institution for a period of forty-five (45) consecutive calendar days after the date of recording. At the end of this time, all off-air recordings must be erased or destroyed immediately.
3. Off-air recordings may be (a) used once by individual teachers in the course of relevant teaching activities; and (b) repeated only when instructional reinforcement is necessary. The use of the recording for instructional purposes must occur during the first ten (10) consecutive school days within the 45 calendar day retention period.
4. After the first ten consecutive school days, the off-air recording can only be used, up to the end of the 45 consecutive calendar days, for teacher evaluation purposes, i.e., to determine whether to include the broadcast program in the teaching curriculum and may not be used in the recording institution for student exhibition or any other non-evaluative purpose without authorization.
5. Off air records may:
 - a. be made only at the request of an individual teacher
 - b. be used only by an individual teacher
 - c. not be regularly recorded in anticipation of requests
 - d. not be recorded off-air more than once at the request of same teacher, regardless of the number of times the program may be broadcast.

6. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy is subject to all provisions governing the original recording.
7. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content.
8. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.
9. All copies of off air recordings must include the copyright notice on the broadcast program as recorded.

Definitions

1. Broadcast programs are television programs transmitted by television stations for reception by the general public without charge.
2. School days are school session days which means one does not count weekends, holidays, vacations, examination periods, or other scheduled interruptions.

Note: Source is the House Subcommittee on Courts, Civil Liberties and Administration of Justice, March 1979.