

Guidelines on Fair Use and Copying Copyrighted Materials (Legislative Materials)

A. Publisher permission is not required for materials published before 1923. Publisher permission is not required for most government materials unless they contain editorial materials such as head notes that were supplied by a private publisher, or unless the government has allowed the private publisher to own the materials (which does now occur because of the 1998 Hatch Amendments).

B. Publisher permission is not required if copying is within fair use. If you are making or distributing copies for class distribution, or multiple copies for a purpose other than an immediate research project, even if those copies constitute fair use as described below, you must get copyright clearance from the Law School Copyright Compliance Officer, Laurie Urquiaga, x86657.

C. The following guidelines state the minimum and not the maximum standards of educational fair use under 17 U.S.C. section 107. If you believe you have a case that should constitute fair use, but does not fall within these guidelines, contact the Law School Copyright Compliance Officer, Laurie Urquiaga, x86657.

D. 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 the material meets all of the tests out below and that each copy includes a notice of copyright.

E. Brevity Test - Either test may be met

1. Either a complete article, story or essay of less than 2,500 words, or an excerpt from any prose work of not more than 1,000 words or 10 percent of the work, which ever is less meets the brevity test. Anything 500 words or less meets this test.
2. Each of the numerical limits stated above may be expanded to permit the completion of an unfinished prose paragraph.
3. Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue meets the test.

F. Spontaneity - Both parts of this test must be met

1. The copying must be at the instance and inspiration of the individual teacher.
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.

G. Cumulative effect - All three tests must be met.

1. The copying of the material is for only once course in the school in which the copies are made.
2. Not more than one short poem, article, story, essay or two excerpts is copied from the same author, nor more than three from the same collective work or periodical volume during on class term.
3. There are no more than nine instances of such multiple copying for one course during one class term.

H. Prohibitions - These prohibitions override any fair use exception.

1. Copying may not create, 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 reproduced and used separately.
2. Copying of or from works intended to be consumable in the course of study or of teaching is always prohibited. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.
3. Unauthorized copying may not:
 - a) Substitute for the purchase of books, publishers' reprints 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.
4. No charge may be made to the student beyond the actual cost of the photocopying.

I. The actual copyright statement from the original must be accurately reproduced on the first page of the copied material in order to comply with the most recent law.