

Questions and Answers on Copyright

For the Campus Community

Association of American Publishers
Association of American University
Presses
Copyright Clearance Center
National Association of College Stores
Software Publishers Association
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A 12-minute videotape entitled "A Shared
Set of Values - Copyright and Intellectual
Property in the Academic
Community," designed to increase
copyright awareness and stimulate
discussion among students on this

important issue, is available for purchase from the Association of American Publishers (AAP) and the Software Publishers Association (SPA). For further information write AAR 71 Fifth Avenue, NY, NY 10003; or SPA, 1730 M ST. NW, Washington, DC 20036.

INTRODUCTION

Reproduction of copyrighted material without prior permission of the copyright owner, particularly in an educational setting, is an issue of concern for the academic community. Unfortunately, the impropriety of much unauthorized copying is often overlooked by users in an educational setting.

Although copying all or part of a work without obtaining permission may appear to be an easy and convenient solution to an immediate problem, such unauthorized copying can frequently violate the rights of the author or publisher of the copyrighted work, and be directly contrary to the academic mission to teach respect for ideas and for the intellectual property that expresses those ideas.

Without understanding the copyright law, including elements such as the doctrine of "fair use" and its application and limitations in the educational setting, faculty members, copy centers, college stores, universities and colleges themselves, and others will be at risk for engaging in illegal copying.

This booklet is intended to aid you in conforming to the requirements of U.S. copyright law by providing an easy-to-understand guide. This guide, in question and answer format, presents a current overview of relevant sections of the Copyright Act, including:

- The requirements for protection of copyrighted works from unrestricted copying;
- The doctrine of "fair use" and its limitations;
- Issues pertaining to software and the Internet;
- Procedures on how to obtain permission to reproduce copyrighted material; and
- Information on how to register works for copyright protection.

The goal of this booklet, cosponsored by the Association of American Publishers (AAP), the National Association of College Stores (NACS), and the Software Publishers Association (SPA), and endorsed by the Association of American University Presses (AAUP), and the Copyright Clearance Center (CCC), is to clarify the issues and present information and procedures that will result in greater understanding of the rules governing use of copyrighted works and facilitate the permissions process.

QUESTIONS AND ANSWERS CONCERNING COPYRIGHT COMPLIANCE FOR PRINT AND SOFTWARE

1. What is copyright?

Copyright is the right granted by law to an author or other creator to control use of the work created. The

copyright law grants owners of copyright (authors and other creators and publishers) the sole right to do or allow others to do each of the following acts with regard to their copyrighted works: to reproduce all or part of the work; to distribute copies; to prepare new (derivative) versions based on the original work; and to perform and display the work publicly.

Copyright protection covers both published and unpublished works. The fact that a previously published work is out of print does not affect its copyright.

Copyright protection exists to foster and induce the creation of all forms of works of authorship. This includes books, newspapers, magazines, computer software, multimedia works, sound recordings, audio visual works and other works. The copyright law does so by providing fair returns to creators and copyright owners. To the extent copies are made without permission, authors and publishers - including faculty - are deprived of revenues in the very market for which they have written and published. This could severely reduce the incentive to create new materials in all formats.

Copyright protection in works created after January 1, 1978 generally lasts for 50 years after the death of the author. Copyright in works created by businesses, rather than individuals, or before 1978 can last for 75 years from publication. After a work is no longer protected, it falls into the public domain. (See question 17.)

2. How is a copyright obtained?

The Copyright Act provides that copyright protection begins at the moment the work is created. Registration with the Copyright Office is not required in order for a work to be protected under U.S. copyright law. The copyright must generally be registered with the Copyright Office in Washington, D.C., before the copyright owner can sue an infringer. (Once the work is registered, suit can be brought for infringements.) For some foreign works infringed after March 1, 1989, registration prior to suit is no longer required. In all cases, however, registration provides certain

advantages, including the ability to qualify for an award of attorney's fees and substantial statutory damages.

3. What types of works can claim copyright protection?

Copyright protection exists in "original works of authorship" which are "fixed in a tangible medium of expression." Among the types of works which are subject to copyright protection are literary, dramatic, musical, choreographic and pictorial, graphic, pantomimes, sound recordings, sculptures, motion pictures and audio-visual. These categories include reference works (including dictionaries), video cassettes, and computer programs and databases.

Copyright protection does not include facts, ideas, procedures, processes, systems, concepts, principles or discoveries, although these may be protectible under patent or trade secret laws. However, the literary or other form of expression and detailed organization of these ideas is covered by copyright.

4. How do I find out who owns the copyright for a particular work?

You should consult the location on the work or packaging containing the copyright notice as well as any acknowledgments. If you have a photocopy or other reproduction that does not contain a notice of copyright or acknowledgments, consult an original copy of the work.

Most works contain a copyright notice. Because copyright ownership can be transferred after publication, your copy may not identify the current copyright owner. Consult the publisher of the work that you wish to copy as a first step. They may be able to refer you to the current owner. For unpublished works, permission to copy should be obtained from the author of the work. The absence of a copyright notice does not mean that the work in question may be freely copied.

The U.S. Copyright Office maintains records of registered works by author and title. For more information, ask the Copyright Office to send you Circular 22 - "How to Investigate the Copyright Status of a Work, " at (202) 707-9100, or <http://lcweb.loc.gov/copyright/circs.html>.

5. What are the penalties for copyright infringement?

Civil and criminal penalties may be imposed for copyright infringement. Civil remedies can include an award of monetary damages (substantial statutory damages, which in cases of willful infringement, may total up to \$100,000 per work infringed, or actual damages, including the infringer's profits), an award of attorney's fees, injunctive relief against future infringement and the impounding and destruction of infringing copies,

While under some circumstances educators are not required to pay statutory damages, nonetheless, they may be responsible for paying the copyright owner actual damages caused by their infringement, as well as attorney's fees.

6. What is "Fair use"? How does it affect copyrighted material?

"Fair use" under the U.S. copyright law permits limited use of portions of a copyrighted work without the copyright owner's permission for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. Section 107 of the Copyright Act establishes four basic factors to be considered in deciding whether a use constitutes a fair use. These factors are:

- A. The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
- B. The nature of the copyrighted work;
- C. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

D. The effect of the use upon the potential market for or value of the copyrighted work.

No one factor determines a person's right to use a copyrighted work without permission.

7. Is all copying by educational institutions fair use?

No. There is no blanket exemption from liability for infringement by educational institutions or for educational uses. Rather, the particular use must qualify as a fair use.

8. Are there guidelines for educators and students to decide what is a fair use?

Yes. To help students and educators decide whether fair use permits them to copy a work without permission, representatives of educators, authors, and publishers have agreed to several sets of guidelines. While only the courts can authoritatively determine whether a particular use is fair use, these guidelines are generally considered to be, in the words of Congress, "a reasonable interpretation of the minimum standards of fair use." Therefore, although some limited copying that does not fall within the guidelines may still be fair use, unauthorized copying that does comply with these guidelines generally constitutes fair use under the Copyright Act.

Books and Periodicals. In 1976, the U.S. Congress endorsed fair use guidelines for educators making multiple copies of portions of books and periodicals for use in classrooms. The guidelines also permit educators to make single copies of lengthier portions. On the other hand, the guidelines expressly prohibit some types of copying as not being fair use, such as making unauthorized coursepacks. These guidelines do not apply to computer software. (See Appendix A.)

Television Programming. In 1981, a Congressional committee endorsed guidelines that permit individual educators to record broadcast television programming (but not pay-per-view) and to play the recording soon after the broadcast in the course of relevant teaching activities.

Educational Multimedia Presentations. In late 1996, a Congressional subcommittee recognized guidelines that permit educators and students to reproduce and adapt portions of books, movies, sound recordings, and computer program screen displays for use in educational multimedia presentations.

Distance Learning. Guidelines on the use of copyrighted works in certain distance learning situations are under consideration.

For more information about fair use and guidelines, ask the U.S. Copyright Office to send you "Circular 21 - Reproduction of Copyrighted Works by Educators and Librarians". The Copyright Office can be reached at (202) 707-9100, and at <http://lcweb.loc.gov/copyright/circs.html>. Multimedia and Distance Learning guidelines are reprinted in the Interim Report of the Conference on Fair Use at <http://uspto.gov>.

9. What is "the Kinko's case"?

"The Kinko's case" refers to a lawsuit for copyright infringement filed against Kinko's Graphics Corporation in 1989 by eight book publishers. The Court held that Kinko's' practice of photocopying, without authorization, multiple page excerpts (including chapters of books and articles from periodicals) from copyrighted works to create anthologies (coursepacks) and of selling those anthologies to students for a profit violated the publishers' copyrights. The copyrighted works Kinko's infringed included hardback and paperback editions of works, both in-print and

out-of-print works, and trade, professional and text books. The copied materials ranged in length from 14 to 110 pages and from 5% to 24% of the works.

The Court found that Kinko's had infringed the publishers' copyrights and, in addition to enjoining Kinko's from photocopying works to create anthologies without the permission of the copyright owners, awarded the plaintiffs damages, court costs and attorneys' fees resulting in Kinko's paying almost \$2 million.

The Court's decision in the Kinko's case did not prohibit the reproduction and sale of anthologies. It only prohibited the unlawful reproduction and sale of anthologies, i.e., those made without obtaining proper copyright permission.

10. Why did the publishers bring this suit?

Publishers typically sell both complete books and the permission to copy smaller portions of books. As copyright owners, publishers have the right to refuse permission. Kinko's' practice of copying without permission infringed publishers' rights to sell permission to copy or, at their discretion, to object to copying, and deprived both publishers and authors of royalty income.

11. What is "the Michigan Document Services case"?

"The Michigan Document Services (MDS) case" refers to a lawsuit for copyright infringement brought by three publishers against Michigan Document Services, Inc. and James M. Smith. On April 1, 1992, the trial court issued a preliminary injunction on behalf of the publishers prohibiting the defendant copyshop and its owner-operator from making coursepacks of excerpts of plaintiffs' copyrighted works without permission. The copied materials ranged in length from 17 to 95 pages and from 5% to 30% of the original works. As in the Kinko's case, the judge at the trial court level found that use of materials for an educational purpose does not itself constitute fair use, and held MDS and Smith to be infringers.

On February 12, 1996, the trial court's order was reversed by a three judge panel of the U.S. Court of Appeals for the Sixth Circuit. However, on April 10, 1996, the entire Sixth Circuit Court of Appeals vacated the reversal and reinstated the District Court's opinion. The case was reargued on June 12, 1996 and on November 8, 1996, the Sixth Circuit affirmed the District Court's judgment that MDS' copying of copyrighted materials to make coursepacks was infringing and did not constitute fair use. At the time this booklet is being prepared, MDS has indicated that it will seek to obtain Supreme Court review.

Thus, the decisions in Kinko's and Michigan Document Services provide the most relevant judicial guidance about copyright law as it pertains to coursepacks. Those who compile and sell coursepacks should not change their practice of obtaining permissions from copyright owners when using excerpts of copyrighted works.

12. What effect will the Kinko's and Michigan Document Services cases have on college bookstores and copy shops that make or sell customized course anthologies?

The Courts' decisions indicate that the making and selling of customized anthologies or coursepacks without the copyright owners' permission is infringing. The record in both cases showed that many college stores are already operating legitimate custom publishing operations

where they obtain permission and produce anthologies authorized by the copyright owners of the included excerpts. The decisions support the practices of these stores.

13. Will faculty members who assign customized course anthologies, or the colleges at which they teach, be liable for copyright infringement?

Anyone who violates any of the exclusive rights of the copyright owner is an infringer. In the Kinko's and IVIDS suits, the publishers sued commercial copy shops that had profited from selling publishers' copyrighted works without obtaining permission. The copy shops in these cases had solicited faculty business and given assurances to faculty that the copyright law would be observed. In 1983, a number of publishers coordinated a suit against New York University and nine professors for creating similar coursepacks. The action was settled with the adoption of certain procedures by NYU. Since that time, faculty and school administrations have generally been sensitive to the copyright law and have widely followed the Classroom Guidelines (see Appendix A) which the Court confirmed in the Kinko's case to be relevant. Other cases have confirmed that educational use can be infringing and that faculty and institutions can be liable for uses that are not fair.

14. Would I infringe someone's copyright if I were to make multiple copies and either distribute those copies for free or require their return after use?

You may be infringing. You do not have to sell the copies (or permanently dispose of them) in order to infringe the copyright owner's rights. (However, making and distributing multiple copies of portions of copyrighted works may be permissible under the classroom guidelines. See Appendix A.)

15. Can I legally copy a work I bought without infringing the copyright?

The purchaser of a work owns only that particular copy of the work. The purchaser does not own any rights in the copyright covering the contents of the purchased copy. A purchaser cannot copy the purchased work, in whole or in part, without the copyright owner's permission unless such copying constitutes "fair use." For information about copying software, see questions 22 to 25.

16. What should I do if I want to use materials that contain a photograph or illustration with a copyright owner different from that of the book itself?

Many times photographs or illustrations are covered by copyrights owned by a different party from the copyright owner of the material in which they are published. The author or publisher of that material has received permission from the photographer or illustrator to include it in the work but may or may not have the right to grant permission to others to reproduce the photograph or illustration. In some cases, licensing organizations act for the photographer or illustrator. You may need to make a separate request for permission to copy the photograph or illustration. See page 12 for Procedures for Obtaining Permission to Copy.

17. Other than under the fair use doctrine discussed in questions 6 through 8, can I ever copy material without infringing someone's copyright?

Works in the public domain may be freely copied; however, collections, translations and edited versions of works in the public domain may be protected by copyright. Works in the public domain include works that have never been the subject of copyright protection, works whose term of copyright protection has expired, and works by the U.S. government. Certain works created by the U.S. government, including documents prepared by an officer or employee of the federal government as part of that person's official duties, may be freely copied. The right to

copy U.S. government-created works without permission, however, does not extend to documents published by others with the support of U.S. government funds, grants or contracts; to portions of government documents which contain copyrighted material from other non-government sources; or to publishers' edited, annotated or compiled versions of such documents.

Absence of a copyright notice does not necessarily indicate that the work is in the public domain. Similarly, the fact that the author is deceased or the book is out-of-print does not mean that the work may be copied. When in doubt about the status of a work, it is best to contact the publisher or author's representative to determine whether the work is still under copyright or in the public domain.

18. What if I request permission and I don't get a response?

If you don't receive a response to your request for permission, you cannot assume that you have been granted the necessary permission.

19. What can I do if course material has been ordered for a class but is late in arriving at the bookstore?

You may be able to obtain permission from the copyright owner to photocopy a portion of the material until the book arrives. Each publisher has different procedures regarding such matters. You should contact the publisher to determine what procedures the publisher follows.

20. Can a college store be liable for infringement if it unknowingly copies or sells works where permission has not been obtained?

Yes. A store can be liable for unknowingly copying or selling works where permission is required. An indemnification agreement obtained from the provider of the materials to be copied or sold by the store will not absolve the store from liability from the copyright owner.

21. When can copyrighted works be uploaded to or downloaded from the Internet?

You may upload or download copyrighted works when you are the copyright owner of the works, when you have permission from the copyright owner, or when fair use applies. While some materials available on the Internet are not protected by copyright, there are also many copyrighted works such as web pages and computer software that are protected just as much as works in other media such as books and CD-ROMs. Many copyright owners permit Internet users to make some use of the work, but the works are not in the public domain, even if they do not display a copyright notice.

Because uploading and downloading works involves copying the work and other exclusive rights, educators and students should apply the rules discussed in this booklet to using copyrighted works on the Internet. They should also be cautious because some copyrighted works are unauthorized copies posted without the knowledge of the copyright owner. For more information, consult the copyright information on the web site or request permission from the webmaster.

COPYING AND NETWORKING SOFTWARE

22. What are the laws with regard to copying software?

Generally, copyright law applies to computer software the same as it does to most other forms of works. However, the copyright law permits the owner to make a copy for archival purposes so

long as the copy is destroyed once the original software is transferred or sold. In limited circumstances, a copy or adaptation may be made as an essential step in using the program in a computer: It is important to note that, in most cases, when buying the software, you are actually acquiring only a license to use the software. The license governs the permitted uses of the software.

23. What is a license agreement, and how does it relate to copyright?

A license agreement allows the purchaser to use the software subject to the terms of the license. The purchaser has not bought the software but only licensed it. The purchaser does not have the right to copy or transfer the software to another party unless provided for in the license agreement.

24. Does fair use apply to computer programs?

Yes, but because most copying involves the entire computer program, rather than a portion of it, the unauthorized copying will rarely be considered fair use.

25. What if a school owns an old version of a software program and wants to purchase additional copies but the program is now unavailable? Can the old software package be copied in such a case?

The software program cannot be copied without first obtaining the permission of the publisher or copyright owner. Some software publishers permit copies to be made in such cases if additional licenses of the new version are purchased. Other publishers allow copies of the old program to be made if upgrades are purchased. Many publishers offer educational discounts that may make it economical to upgrade all older versions.

26. Is there any way to manage networks to ensure that software is not copied?

Yes. A school can purchase "metering" software which tallies the number of license agreements that the school owns and the number of copies made. Also, software auditing programs are available for purchase. These programs keep a log of existing license agreements and tell users what software is installed on their hard drive or server. These programs help to manage software ownership and reduce the possibility of accidentally pirating software. Information about these programs is available on the Software Publishers Association home page (<http://www.spa.org>).

27. What does the expression "pirating software" mean?

It means making an impermissible copy of software.

28. Can computer software be resold?

If a copy of a computer software program is purchased instead of obtained through a license, the purchaser has the right to transfer that one copy of the material. The "First Sale Doctrine" allows the copyright owner to control the initial sale or distribution of the material to the public, but once title to the material changes hands, the copyright owner has no right to control the subsequent resale or transfer of that one copy.

The First Sale Doctrine applies only to copies of the material that were lawfully made or obtained. Thus, if the computer software was a pirated copy, the purchaser does not have the right to subsequently transfer or sell that copy.

If the computer software is obtained through a license, the user should consult the license agreement to determine whether the copy may be resold.

PROCEDURES FOR OBTAINING PERMISSION TO COPY

Whether you request permissions yourself, or through a college store or copy service, these suggestions will speed the process by ensuring that you provide the necessary information to permit the copyright holders to respond to copying requests. The form included in Appendix B can be used for submitting most permission requests.

1. Request permission before or at the same time you order textbooks.

The earlier your request is received the better, in case it cannot be granted and you need to substitute other materials. Publishers do not always control the rights and need time to research the extent to which permission may be granted or to refer you to the correct copyright owner. Each request requires a careful check of the status of the copyright, a determination of the exact materials to be duplicated (which sometimes involves ordering a copy of the material from a warehouse). In other words, the greater the lead time you give the copyright owner to respond to your request, the more likely it is that you will get the permission you seek.

2. Individual requests may be directed to the publisher's Rights and Permissions Department.

The page containing the copyright notice shows who owns the copyright, the year of publication and the publisher's name. The acknowledgment page may also contain information regarding copyright ownership. If the rights are held by the author or another publisher, you will be referred to the correct copyright owner. If the address of the publisher does not appear with the material, it may be obtained from a variety of resources such as the National Association of College Stores' Book Buyers' Manual; the American

Booksellers Association's Publishers Directory; the Association of American University Presses Directory (available from the University of Chicago Press); Books in Print; The Literary Marketplace (for books); The International Literary Marketplace (for international listings); or Ulrich's International Periodicals Directory (for journals), published by R.R. Bowker Co., and available in any library. Your college store also has access to a few of these and similar resources. The Software Publishers Association includes a directory of software publishers on its home page (<http://www.spa.org>). The Authors Registry can help you find specific authors.

3. Include all of the following information in your request:

- A. Author's, editor's, translator's full name(s);
- B. Title, edition and volume number of book or journal;
- C. Copyright date;
- D. ISBN for books, ISSN for magazines and journals;
- E. Numbers of the exact pages, figures and illustrations;
- F. If you are requesting a chapter or more: both exact chapter(s) and exact page numbers;
- G. Number of copies to be made;
- H. Whether material will be used alone or combined with other photocopied materials;
- I. Name of your college or university;
- J. Course name and number;
- K. Semester and year in which material will be used; and
- L. Instructor's full name.

4. Request permission whether or not works are in print.

5. Provide your complete address and the name of a contact person and telephone number in case there are any questions.

In many cases your college store or other service can assist you and/or provide appropriate forms; many of these services accept the form included in Appendix B. The publisher's response form will provide information about payment and fees which are determined by the individual publisher. Many publishers have copyright permission information on the Internet.

6. Other resources to facilitate permission:

Publishers typically control permissions for scientific and scholarly books and journals, and for most in-print trade books. For some in-print and most out-of-print trade books and for articles in general circulation magazines, rights are often held by the authors. The Authors Registry can help you locate authors. The Authors Registry can be reached at <http://www.authorsregistry.org> or by writing to Authors Registry, 330 W. 42nd Street, New York, NY 10036. The Copyright Clearance Center (CCC) provides a central clearinghouse for clearing permissions for over 1.75 million titles and offers an on-line service for clearing permission for coursepacks at <http://www.copyright.com>. The CCC can also be reached by writing to 222 Rosewood Drive, Danvers, MA 01923.

OBTAINING COPYRIGHT REGISTRATION

Educators and students who create copyrighted works may wish to register the copyrights in these works. Although copyright is secured automatically upon creation, there are certain advantages to registering works:

- A. Registration creates a record informing the public that the work is protected by copyright;
- B. It identifies the copyright owner and shows the year of first publication; and
- C. In the event a work is infringed and the work carries a proper notice, a court will not allow a defendant to claim "innocent infringement."

Registration may be made at any time within the life of the copyright. Before an infringement suit may be filed in court, registration is necessary for works of U.S. origin and for foreign works not originating in a Berne Union country.

HOW TO REGISTER WORKS:

All applications and materials related to copyright registration can be obtained through or should be addressed to:

Register of Copyrights Copyright Office Library of Congress Washington, DC 20559-6000
202/707-3000 Web Site: <http://lcweb.loc.gov/copyright>

The Copyright Office is not permitted to give legal advice. If you need information or guidance on matters such as disputes over the ownership of a copyright, suits against possible infringers, the procedure for getting a work published, or the method of obtaining royalty payments, it may be necessary to consult an attorney.

Appendix A

The following excerpt from the legislative history of the 1976 Copyright Act establishes congressionally endorsed guidelines relating to classroom copying for educational use:

Agreement On Guidelines For Classroom Copying In Not-For-Profit Educational Institutions With Respect To Books And Periodicals.

The purpose of the following guidelines is to state the minimum standards for educational fair use under Section 107 of HR 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 standards 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 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 tests 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:

- i. Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or (b) from a longer poem, an excerpt of not more than 250 words.
- ii. Prose: (a) Either a complete 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 "i" and "ii" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)
- iii. Illustration: 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 sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph "i" above notwithstanding such "special works" may not 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:

- i. The copying is at the instance and inspiration of the individual teacher; and
- 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.

Cumulative Effect:

- i. The copying of the material is for only one course in the school in which the copies are made.
- ii. 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,
- iii. There shall not be more than nine instances of such multiple copying for one course during one class term. (The limitations stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.)

PROHIBITIONS:

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 therefrom 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 teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material,

C. Copying shall not: i. substitute for the purchase of books, publisher's reprints or periodicals; ii. be directed by higher authority; iii, 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.

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