



TITLE DUPLICATION OF COPYRIGHTED OR LICENSED MATERIALS

Policy     Procedure     Rule     Regulation     Form

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## 1.0 Introduction

The Copyright Act of 1976 was passed to protect the financial interests of creative individuals by prohibiting others from copying or misusing their works. The law also recognizes the need to "promote the progress of science and useful arts" through the dissemination of intellectual and artistic work.

## 2.0 Guidelines

In an attempt to balance the interest of copyright holders with the need to disseminate information, general guidelines have been developed to help determine whether the use of copyrighted materials is fair. The guidelines differ for educational use, libraries, and other purposes. Interpretations of fair use are more restrictive for nonteachers than for teachers.

### 2.1 Factors which Determine Noneducational "Fair Use"

- 2.1.1 The purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes.
- 2.1.2 The nature of the copyrighted work.
- 2.1.3 The amount and substantiality of the portion used in relation to the copyrighted work.
- 2.1.4 The effect of the use on the potential market for, or the value of, the copyrighted work.

### 2.2 Educational "Fair Use" Guidelines

- 2.2.1 Duplication of materials for a class at a nonprofit educational institution is less likely to be an infringement than is copying for public consumption, as long as no charge is made for the copies. While this implies a special status for educational institutions, the remaining guidelines may override this consideration.
- 2.2.2 Duplication of informational work is less likely to be an infringement than is photocopying of creative work. In general this means copying articles from newspapers or newsmagazines is less likely to be a violation than copying a musical score, a short story or a page from a workbook.

2.2.3 Duplication of a small portion of a copyrighted work is less likely to be an infringement as long as the copying does not contain the essence of principal elements of the work. In general this means up to 10 percent of a work may be copied.

2.2.4 Duplication of a work must not take away any portion of the potential sales of the work.

The guidelines for educational use dictate that copying be spontaneous and require the use of the copyright notice.

### 2.3 Spontaneity Guidelines

Guidelines established by Congress for educational photocopying include the requirement that photocopying be spontaneous. This means that if there is not enough time to seek permission from the publisher (generally considered to be four weeks) before the "teachable moment" has passed, duplication is probably all right. If, on the other hand, those copies are made part of the syllabus and distribution becomes a planned part of the course, the use is an infringement.

2.4 To serve notice that materials came from a copyrighted source, materials duplicated for classroom use must carry the copyright notice. This notice has three parts:

- a. the word "Copyright" or the familiar c symbol
- b. the name of the owner of the copyright
- c. the date of the first copyright.

## 3.0 Printed Materials

### 3.1 Permitted

3.1.1 Single copies, at the request of an individual teacher for scholarly reasons or preparation to teach a class, of

- a. a chapter of a book
- b. an article from a magazine 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, magazine or newspaper.

3.1.2 Multiple copies at the request of a teacher for classroom use (not to exceed one copy per pupil in a course) of

- a. a complete poem if less than 250 words
- b. an excerpt from a longer poem, but not to exceed 250 words

- c. a complete article, story or essay of less than 2,500 words
- d. an excerpt from a larger printed work not to exceed 10 percent of the whole or 1,000 words, whichever is less
- e. one chart, graph, diagram, cartoon or picture per book or magazine issue.

### 3.2 Prohibited

- 3.2.1 Copying more than one work or two excerpts from a single author during one class term.
- 3.2.2 Copying more than three works from a collective work or periodical volume during one class term.
- 3.2.3 More than nine sets of multiple copies for distribution to students in one class term.
- 3.2.4 Copying used to create or replace or substitute for anthologies or collective works.
- 3.2.5 Copying of "consumable" works such as workbooks, standardized tests, answer sheets, etc.
- 3.2.6 Repeated use (more than one class term) of a photocopied item "on reserve" in the library.

## 4.0 Sheet and Recorded Music

### 4.1 Permitted

- 4.1.1 Emergency copies for an imminent performance are permitted, provided they are replacing purchased copies and replacement is planned.
- 4.1.2 Multiple copies (one per pupil) of excerpts not constituting an entire performance unit or more than 10 percent of the total work may be made for academic purposes other than performances.
- 4.1.3 Purchased sheet music may be edited or simplified provided the character of the work isn't distorted or lyrics added or altered.
- 4.1.4 A single copy of a recorded performance by students may be retained by the institution or individual teacher for evaluation or rehearsal purposes.
- 4.1.5 A single copy of recordings of copyrighted music owned by the institution for constructing exercises or examinations and retained for same.

## 4.2 Prohibited

- 4.2.1 Copying to replace or substitute for anthologies or collections.
- 4.2.2 Copying from works intended to be "consumable."
- 4.2.3 Copying for purpose of performance except for 4.1.1 permitted.
- 4.2.4 Copying to substitute for purchase of music.

## 5.0 Audiovisual Works

### 5.1 Permitted

- 5.1.1 Creating a slide or overhead transparency series from multiple sources as long as creation does not exceed 10 percent of photographs in one source, unless the source forbids photographic reproduction.
- 5.1.2 Creating a single overhead transparency from a single page of a "consumable" workbook.
- 5.1.3 Reproducing selected slides from a series if reproduction does not exceed 10 percent of total nor excerpt "the essence."
- 5.1.4 Excerpting sections of a film for a local videotape (not to be shown over cable) if excerpting does not exceed 10 percent of the total nor "the essence" of the work.
- 5.1.5 Stories or literary excerpts may be narrated on tape and duplicated as long as similar material is not available for sale.

### 5.2 Prohibited

- 5.2.1 Duplication of tapes unless reproduction rights were given at time of purchase.
- 5.2.2 Reproduction of musical works or conversion to another format (e.g., record to tape).
- 5.2.3 Reproduction of commercial "ditto masters," individually or in sets (including multimedia kits), if available for sale separately.
- 5.2.4 Reproduction of any audiovisual work in its entirety.
- 5.2.5 Conversion of one media format to another (e.g., film to videotape) unless permission is secured.

## 6.0 Computer Software

Most computer software purports to be licensed rather than sold. Terms vary greatly among software producers. Users of LSC computer facilities are expected to conform to the terms of software licenses. A list of the software licensed by Lyndon State College and the terms of those licenses are maintained in the Dean of Administration's office.

### 6.1 Permitted

6.1.1 If license permits - making a backup copy of the software for archival purposes.

6.1.2 If license permits - installing software on one hard drive.

### 6.2 Prohibited

6.2.1 Using software purchased for personal use in a classroom.

6.2.2 Creation of new copies or network use of software which violate the license.

## 7.0 Off-Air Recording

### 7.1 Permitted

7.1.1 A broadcast program may be recorded off-air simultaneously with transmission and retained by a nonprofit educational institution for 45 calendar days after date of recording.

7.1.2 Off-air recordings may be used once by individual teachers for relevant classroom activities and once for necessary reinforcement during the first 10 consecutive school days after recording.

7.1.3 After the first 10 school days, recordings may be used up to the end of the 45-day retention period for teacher evaluation purposes only (e.g., to determine if the program should be purchased for the curriculum).

7.1.4 Such recordings may be made only at the request of and used by individual teachers. No broadcast program may be recorded more than once for the same teacher.

7.1.5 Such recordings need not be used in their entirety but may not be altered or edited and must include the copyright notice on the program as recorded.

### 7.2 Prohibited

7.2.1 Off-air recording in anticipation of teacher requests.

7.2.2 Using the recording for instruction after the 10-day use period.

7.2.3 Holding the recording for weeks or indefinitely because

- a. units needing the program concepts aren't taught within the 10-day use period
- b. an interruption or technical problem delayed its use
- c. another teacher wishes to use it...or any other supposed "legitimate" educational reason.

On occasion, a special notice is provided with some materials specifically prohibiting reproduction of any kind. Permission to use any part of such works must be secured in writing from the author or producer.

In no case shall any College employee or student use College equipment for duplication which would prevent or circumvent sale of copyrighted materials.

For more complete discussion of National Standards, see:

"Copyright Revision Act of 1976" P.L. 94-553 (S. 22).

"Congressional Ad Hoc Committee on Educational Institutions and Organizations on Copyright Law Revision; the Authors League of America, Inc.; and the Association of American Publishers, Inc., Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions" in Copyright Revision Act of 1976 - Law, Explanation, Committee Reports, Commerce Clearing House, Inc., Chicago, 1976.

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