

Copyright Policies

Copyright is a form of legal protection for authors of original works, including literary, dramatic, musical, artistic, and other intellectual products. Publication is not essential for copyright protection, nor is the well-known symbol ©.

Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under section 106 of the Copyright Act (Title 17 of the United States Code). These rights include the right to reproduce or distribute a copyrighted work. In the file-sharing context, downloading or uploading substantial parts of a copyrighted work without authority constitutes an infringement. Penalties for copyright infringement include civil and criminal penalties. In general, anyone found liable for civil copyright infringement may be ordered to pay either actual damages or “statutory” damages affixed at not less than \$750 and not more than \$30,000 per work infringed. For “willful” infringement, a court may award up to \$150,000 per work infringed. A court can, in its discretion, also assess costs and attorneys’ fees. For details, see Title 17, United States Code, Sections 504, 505. Willful copyright infringement can also result in criminal penalties, including imprisonment of up to five years and fines of up to \$250,000 per offense. For more information, please see the website of the U.S. Copyright Office at www.copyright.gov.

The rights granted to the copyright owner are subject to “Fair Use” limitations, which apply to all media and medium-specific limitations.

Printed Materials

Works that May be Used Freely

Occasionally, scholarly publications such as journal articles include a note offering the right to copy for educational purposes. Some categories of publications are in the public domain; that is, their use is not protected by copyright law:

- Publications dated 1922 or earlier.
- Works that do not include a copyright notice and were first published before January 1, 1978.
- Most United States government documents.

Fair Use

The doctrine of fair use, embedded in section 107 of the Copyright Act of 1976, addresses the needs of scholars and students by mitigating the rights of copyright ownership. However, what constitutes fair use is expressed in the form of guidelines rather than explicit rules. To determine fair use, consider the following four factors [from *What Educators Should Know About Copyright*, by Virginia M. Helm; Bloomington, IN, Phi Delta Kappa Educational Foundation, 1986]:

1. The purpose and character of the use, including whether the copied material will be for nonprofit, educational, or commercial use. This factor at first seems reassuring; but unfortunately for educators, several courts have held that the absence of financial gain is insufficient for a finding of fair use.
2. The nature of the copyrighted work, with special consideration given to the distinction between creative work and informational work. For example, photocopies made of a newspaper or magazine column are more likely to be considered fair use than copies made of a musical score or a short story. Duplication of material originally developed for classroom consumption is less likely to be a fair use than is the duplication of materials prepared for public consumption. For example, a teacher who photocopies a workbook page or a textbook chapter is depriving the copyright owner of profits more directly than if copying one page from the daily paper.
3. The amount, substantiality, or portion used concerning the copyrighted work as a whole. This factor requires consideration of 1) the proportion of the larger work that is copied and used, and 2) the significance of the copied portion.
4. The effect of the use on the potential market of the copyrighted work. This factor is regarded as the most critical one in determining fair use, and it serves as the basic principle from which the other three factors are derived and to which they are related. If the reproduction of a copyrighted work reduces the potential market and sales and, therefore, the potential profits of the copyright owner, that use is unlikely to be found a fair use.

Photocopying

The following parameters define the limits within which we can be sure of complying with copyright law. Somewhat more extensive copying may be sanctioned by the fair use guidelines.

Single Copies for Scholarly Needs or Library Reserve

1. One chapter from a book.
2. One article from a journal issue or newspaper.
3. Multiple excerpts from a single book or journal issue will be accepted only if the total length of the submission is 10% or less of the total length of the book or journal issue.
4. A short story, short essay, or short poem.
5. A chart, diagram, drawing, graph, cartoon, or picture.

Multiple Copies for Classroom Use

Copies for classroom use must meet the following tests of brevity, spontaneity, and cumulative effect. Each copy must also include prominent notice that it is copyrighted material – e.g., “Copyright 1990 by Elsevier Books, Inc.”

Brevity:

1. *Prose*: Either (1) a complete article, story or essay of less than 2,500 words, or (2) 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 an excerpt of up to 500 words.
2. *Poetry*: (1) A complete poem if less than 250 words and if printed on not more than two pages, or (2) an excerpt of not more than 250 words. (Each of the numerical limits above may be expanded to permit the completion of an unfinished prose paragraph or line of a poem.)
3. *Illustration*: One chart, graph, diagram, drawing, cartoon or picture per book or periodical issue.
4. *Special Works*: Certain works in poetry or prose or in “poetic prose”, which may combine language with illustrations and which fall short of 2,500 words,

may not be reproduced in their entirety. However, an excerpt comprising not more than two of the published pages of such a work, and containing not more than 10% of the words found in the text, may be reproduced.

Spontaneity: The copying is at the instance and inspiration of the individual instructor. 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: The copying of the material is for only one course, with no more than one copy per student in the course. 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 a term.

Sound Recordings

Non-Music Recordings: Cassettes or disks may not be copied unless replacement recordings from a commercial source cannot be obtained at a fair price. Recording brief excerpts is considered fair use, however.

Music Recordings: A single copy may be made to construct aural exercises or examinations. Otherwise, the restrictions on copying non-music recordings apply. For more information on the use of music and video recording, refer to the Digital Millennium Copyright Act of 1998 [here](#).