

COPYRIGHTED MATERIALS: Use and Restrictions

A. Computer Software

According to College policy (Source: Dean's Office; June 21, 1989) unauthorized copying or use of computer software violates federal law, a likely breach of a license agreement and an action that also may subject the perpetrator to official sanctions within the College. Faculty, students and staff should assume that copying of software for use on an additional machine is prohibited unless prior approval is obtained from a vendor or a person authorized to give such approval.

Some agreements restrict the use of software to certain equipment. Unauthorized use of this software will be viewed the same as unauthorized copying. Copyright law also holds that multiple-loading from one disk to multiple machines is a violation unless allowed by license.

The College does not require, request or condone unauthorized copying or use of computer software, so the College will not provide legal defense for persons accused of making unauthorized copies of software even if these persons maintain such action was taken in the course of their employment. If the College is sued or fined because of unauthorized copying or use by faculty, students or staff, it may seek payment from the persons as well as subject them to disciplinary action that may include dismissal.

B. Photocopying for Professional and/or Classroom Use

Faculty members who use photocopies for professional use or for distribution within the classroom must be aware of guidelines that outline minimum standards of "educational fair use" (Source: Vice President for Finance; April 5, 1993). Compliance with these guidelines may bear on the permissibility of such photocopies to serve as "Reserve Materials" in the Library (see: Library section, below). These guidelines are given below.

Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with Respect to Books and Periodicals (March 19, 1976)

The purpose of the following guidelines is to state the minimum standards 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 the 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 [subsequently enacted as 17 U.S.C 107]. 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/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) 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 of 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 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 (ii) 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.]

III. Prohibitions as to I and III Above. Notwithstanding any of the above, the following shall be prohibited:

A. Copying shall not be used to create, replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works of excerpts there from are accumulated or 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 test booklets and answer sheets and the like consumable material.

C. Copying shall not: (1) substitute for the purchase of books, publishers' reprints or periodicals; (2) be directed by higher authority; (3) 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 photocopying.

C. Videotape Materials

Faculty members who use video tape materials in the classroom must be aware of the restrictions that apply to those materials (Source: Student Development Office; March 29, 1989):

* A video tape, was not produced primarily as an educational tool, must be related directly to the curriculum of the course in which it is being used.

* In showing a feature film, a legitimate copy (one bought or rented from an authorized dealer) must be used. Purchased tapes carry the same restrictions as rented tapes, because the purchased tape is licensed for private use, only. **Under no circumstances can movies taped from television broadcasts be used in a classroom curriculum.**

* If the presentation is a network program (e.g., TV special, series or documentary), a home recorded copy may be used in the classroom if shown and erased within seven days of the original broadcast.

* The presentation of legitimate copies of feature films or home-taped network programs must occur during the regularly-scheduled class time for the class in which they are being used, with viewing limited to the enrolled members of that class. Any presentation of these materials outside of the regularly-scheduled class time or to persons not enrolled in that class is a theatrical showing and, unless a fee is paid to the copyright holder, violates copyright laws.

Failure to follow these guidelines violates copyright laws and could result in a fine (up to \$50,000) being levied against the College, in addition to fines levied against the individual responsible for the violation.