

Reproducing Print Materials for Use in Class: Options and Examples

Option 1: Licensed by the Copyright Clearance Center. If the material you want to distribute is included under our license with the Copyright Clearance Center (CCC), there is no additional licensing cost to distribute it in printed form, such as handouts and coursepacks, or electronically, such as in Moodle or an email attachment.

If the material is not covered by the CCC license, you can try to use it through other options.

Option 2: Free in Public. The most economical way to provide print material to students is to find it already posted on a website by someone else (hopefully, it was done legally) and link to it. Also, materials published before 1923 and most government works are in the public domain, so are free to reproduce. Mark Twain's works are in the public domain (Project Gutenberg).

Option 3: Free through Calvin. If you cannot locate it on a free page on the web, try to locate it in electronic form through the Hekman Library, which subscribes to a large number of electronic journals and resources. Students can access the link through Moodle.

Option 4: Copy on Reserve. You are allowed to put a print copy on reserve at the Hekman Library and assign your students to read it there. If you have a small class, you might circulate the book or periodical to the students, yourself. Although they might make a photocopy and read it, later, you are not allowed to direct them to make a copy, such as requiring them to bring a copy to use during class.

Option 5: Guidelines for Classroom Copying. If *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*, then the material might qualify for distribution at no cost through the *Guidelines for Classroom Copying...* . Besides being included, below, they are examined and explained in chapter 5 of *Copyright for Schools, A Practical Guide, 5th Edition*. Note that the material must pass three tests: brevity, spontaneity, and cumulative effect.

Option 6: Fair Use Guidelines. If your use of the material does not qualify under the Guidelines for Classroom Copying, it might qualify under the Fair Use Guidelines. Besides being included, below, they are examined and explained in chapter 4 of *Copyright for Schools, A Practical Guide, 5th Edition*.

Option 7: Licensing with Publisher. If your use of the material does not seem to qualify under the Guidelines for Classroom Copying or the Fair Use Guidelines, you may request permission from the publisher.

Option 8: Find Something Else. Perhaps you can identify another suitable article or chapter which can be accessed or reproduced without cost.

Examples of responses to requests for copying print material:

Activity:	Response & page #'s for <i>Copyright for Schools, A Practical Guide, 5th Edition</i>:
<p>Situation #1. Scan in an article of a subscription magazine, purchased by a different department on campus, as a pdf, in order to post it on Moodle.</p>	<ul style="list-style-type: none"> • Scanning and posting to Moodle is distribution, same as handing out in class. • Doesn't matter who bought the magazine. • Always try Options 1-3 and consider 4. They are free and legal. • Try Option 5, the Classroom Copying Guidelines (pages 54-58). OK if: <ul style="list-style-type: none"> - Brevity Test: article is less than 2,500 words; and - Spontaneity Test: there isn't enough time to get permission before it is needed; and - Cumulative Effect Test (does not apply to news articles): used in only one course; and is the only article copied from that author; and handouts are not distributed under Classroom Use Guidelines more than nine times per course per semester. • If copying is not allowed under Classroom Use Guidelines, try Option 6, the Fair Use Guidelines (pages 35-46). • If none of those options work, use Option 7 or 8.
<p>Situation #2. Make copies of 3 different sections (at least 80 pages) of a book purchased abroad, to post the pdf on Moodle.</p>	<ul style="list-style-type: none"> • Scanning and posting to Moodle is distribution, same as handing out in class. • Doesn't matter where book was purchased. Berne Convention provides U. S. copyright protection to all countries that signed. • Always try Options 1-3 and consider 4. They are free and legal. • 80 pages is more than allowed under Classroom Copying Guidelines, Option 5. • Try Option 6, the Fair Use Guidelines (pages 35-46). • If needed at different times, separate into 3 sections and do Option 4, copy on Reserve. • If none of those options work, Options 7 or 8.
<p>Situation #3. Copy 4 chapters out of an Inter Library Loan book for research.</p>	<ul style="list-style-type: none"> • 4 chapters is more than allowed under Option 5, Classroom Copying Guidelines. • Always try Options 1-3 and consider 4. • Try Option 6, Fair Use. Read pages 35-46. • Read page 171. OK if out-of print.
<p>Situation #4. Copy 4 chapters out of an Inter Library Loan book to make copies for a class handout.</p>	<ul style="list-style-type: none"> • Nearly the same as Situation 2.
<p>Situation #5. Copy an entire book for students in a class (book is out of print)</p>	<ul style="list-style-type: none"> • <i>Out of Print</i> does not mean public domain. Depending on its age, it could still be protected by copyright. • Option 1, licensing, does not cover an entire book. • Try Options 2-3.

	<ul style="list-style-type: none"> • Consider 4, Copy on Reserve, if it is practical. • Option 5, Classroom Guidelines, does not cover an entire book. • Option 6, Fair Use, possible but unlikely if still protected by copyright. • Try Option 7, Licensing if publisher can be located.
<p>Situation #6. Copy an entire book for students in a class (book is still in print)</p>	<ul style="list-style-type: none"> • Nearly the same as Situation 5. • Option 7, Licensing, maybe, but the publisher would rather you purchase the books.
<p>Situation #7. Copy an article for a class that starts in 15 minutes. The article is recent (yesterday's newspaper)</p>	<ul style="list-style-type: none"> • Try Option 4, Classroom Guidelines (under 2,500 words?). • Always try Options 1-3 and consider 4.
<p>Situation #8. Copy an article for a class that starts in 15 minutes. The article was in last year's Grand Rapids Press</p>	<ul style="list-style-type: none"> • Always try Options 1-3 and consider 4. Try GRPress online and Hekman Lib. • Try Option 5, Classroom Guidelines. Spontaneity is satisfied if you recently became aware of it. Brevity is satisfied if it is under 2,500 words. • Try Option 6, Fair Use.
<p>Situation #9. Copy a poem from an international poetry book for a class handout. Educational use?</p>	<ul style="list-style-type: none"> • Doesn't matter where book was printed. Berne Convention provides U.S. copyright protection to all countries that signed. • Try Option 5, Classroom Guidelines. Spontaneity is satisfied if you recently became aware of it. Brevity is satisfied if it is up to 250 words. • Try Option 2 & 3. • Consider Option 4, Reserve. • Consider Option 6, Fair Use. • Else Option 7, Licensing. Maybe you can get free permission from author or publisher.
<p>Situation #10. Copy a translation of a poem from an international poetry book for a class handout</p>	<ul style="list-style-type: none"> • A translation is a separate copyrighted work. • Same as Situation #9.
<p>Situation #11. Add photos found in a textbook to a handout, a bulletin board, a course packet</p>	<ul style="list-style-type: none"> • Photos are often included in a book with permission of the photographer or agency, so are under separate copyright. • Photos of public domain works, of public scenes, or included as part of "news" don't have much protection. Creative photos have more protection. • Try Option 5, Classroom Guidelines, for handout. • If Option 7, Licensing, inquire.
<p>Situation #12. Copy 2 pages from a textbook other than the textbook the students purchased for the class, because the alternate textbook explains the concept better</p>	<ul style="list-style-type: none"> • Consider Option 6, Fair Use. The portion is quite small in comparison to the entire work.
<p>Situation #13. Copy a chapter from a textbook for the reason mentioned above. Where is the boundary for copyright?</p>	<ul style="list-style-type: none"> • Always try Options 1-3. • Consider Option 3, Reserve, if practical. • Try Option 5, Classroom Guidelines. Spontaneity is satisfied if you recently became aware of it. Brevity

	<p>is satisfied if it is under 2,500 words.</p> <ul style="list-style-type: none"> • Try Option 6, Fair Use. • Option 7, Licensing.
<p>Situation #14. Copy part of a book and/or course packet for students abroad (course packet is from the US, but students are using it in a different country). Same copyright laws apply?</p>	<ul style="list-style-type: none"> • US copyright law applies to copying done in US, regardless of where the copies go, later. • Option 1, check if the material is included in our CCC license. • If practical, Option 2 & 3. Provide a link to online source. • Option 4, instructor circulates the book to the class. • Option 7, Licensing.
<p>Situation #15. What are the rules for music?</p>	<ul style="list-style-type: none"> • Option 1, CCC license, does not include print music. • All other listed options apply to print music. • See Guidelines for Educational Uses of Music, below. • Music is chapter 7 of <i>Copyright for Schools, A Practical Guide, 5th Edition</i>, (pages 105-114).

Because the portions of copyright law that apply to educational use of print materials are so general, a committee of congressmen and publishing industry representatives negotiated specific guidelines for classroom use of print materials. Besides being included, below, they are examined and explained in chapter 5 of *Copyright for Schools, A Practical Guide, 5th Edition*. These guidelines are intended to help educators when they identify material to use in class but there isn't enough time to obtain permission to copy it. However, it is not intended to provide a loophole of waiting until the last minute to decide that you want to use certain material in class.

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 and not the maximum standards of educational fair use under 107 of H.R. 2223 [this section]. 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 [this section]. 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 “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 II Above

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 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 like consumable material.

(C) Copying shall 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.

(D) No charge shall be made to the student beyond the actual cost of the photocopying.

Agreed March 19, 1976. Ad Hoc Committee on Copyright Law Revision

GUIDELINES FOR EDUCATIONAL USES OF MUSIC

The purpose of the following guidelines is to state the minimum and not the maximum standards of educational fair use under 107 of H.R. 2223 [this section]. 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 [this section]. 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.

A. Permissible Uses

1. Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.

2. (a) For academic purposes other than performance, multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a section, movement or aria, but in no case more than 10% of the whole work. The number of copies shall not exceed one copy per pupil.

(b) For academic purposes other than performance, a single copy of an entire performable unit (section, movement, aria, etc.) that is, (1) confirmed by the copyright proprietor to be out of print or (2) unavailable except in a larger work, may be made by or for a teacher solely for the purpose of his or her scholarly research or in preparation to teach a class.

3. Printed copies which have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, altered or lyrics added if none exist.

4. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.

5. A single copy of a sound recording (such as a tape, disc or cassette) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.)

B. Prohibitions

1. Copying to create or replace or substitute for anthologies, compilations or collective works.

2. Copying of or from works intended to be “consumable” in the course of study or of teaching such as workbooks, exercises, standardized tests and answer sheets and like material.

3. Copying for the purpose of performance, except as in A(1) above.

4. Copying for the purpose of substituting for the purchase of music, except as in A(1) and A(2) above.

5. Copying without inclusion of the copyright notice which appears on the printed copy. The problem of off-the-air taping for nonprofit classroom use of copyrighted audiovisual works incorporated in radio and television broadcasts has proved to be difficult to resolve. The Committee believes that the fair use doctrine has some limited application in this area, but it appears that the development of detailed guidelines will require a more thorough exploration than has so far been possible of the needs and problems of a number of different interests affected, and of the various legal problems presented. Nothing in section [107](#) or elsewhere in the bill is intended to change or prejudge the law on the point. On the other hand, the Committee is sensitive to the importance of the problem, and urges the representatives of the various interests, if possible under the leadership of the Register of Copyrights, to continue their discussions actively and in a constructive spirit. If it would be helpful to a solution, the Committee is receptive to undertaking further consideration of the problem in a future Congress.

The Committee appreciates and commends the efforts and the cooperative and reasonable spirit of the parties who achieved the agreed guidelines on books and periodicals and on music. Representatives of the American Association of University Professors and of the Association of American Law Schools have written to the Committee strongly criticizing the guidelines,

particularly with respect to multiple copying, as being too restrictive with respect to classroom situations at the university and graduate level. However, the Committee notes that the Ad Hoc group did include representatives of higher education, that the stated “purpose of the . . . guidelines is to state the minimum and not the maximum standards of educational fair use” and that the agreement acknowledges “there may be instances in which copying which does not fall within the guidelines . . . may nonetheless be permitted under the criteria of fair use.”

The Committee believes the guidelines are a reasonable interpretation of the minimum standards of fair use. Teachers will know that copying within the guidelines is fair use. Thus, the guidelines serve the purpose of fulfilling the need for greater certainty and protection for teachers. The Committee expresses the hope that if there are areas where standards other than these guidelines may be appropriate, the parties will continue their efforts to provide additional specific guidelines in the same spirit of good will and give and take that has marked the discussion of this subject in recent months.

Reproduction and Uses for Other Purposes.

The concentrated attention given the fair use provision in the context of classroom teaching activities should not obscure its application in other areas. It must be emphasized again that the same general standards of fair use are applicable to all kinds of uses of copyrighted material, although the relative weight to be given them will differ from case to case.

The fair use doctrine would be relevant to the use of excerpts from copyrighted works in educational broadcasting activities not exempted under section [110 \(2\)](#) or [112](#), and not covered by the licensing provisions of section [118](#). In these cases the factors to be weighed in applying the criteria of this section would include whether the performers, producers, directors, and others responsible for the broadcast were paid, the size and nature of the audience, the size and number of excerpts taken and, in the case of recordings made for broadcast, the number of copies reproduced and the extent of their reuse or exchange. The availability of the fair use doctrine to educational broadcasters would be narrowly circumscribed in the case of motion pictures and other audiovisual works, but under appropriate circumstances it could apply to the nonsequential showing of an individual still or slide, or to the performance of a short excerpt from a motion picture for criticism or comment.

Another special instance illustrating the application of the fair use doctrine pertains to the making of copies or phonorecords of works in the special forms needed for the use of blind persons. These special forms, such as copies in Braille and phonorecords of oral readings (talking books), are not usually made by the publishers for commercial distribution. For the most part, such copies and phonorecords are made by the Library of Congress’ Division for the Blind and Physically Handicapped with permission obtained from the copyright owners, and are circulated to blind persons through regional libraries covering the nation. In addition, such copies and phonorecords are made locally by individual volunteers for the use of blind persons in their communities, and the Library of Congress conducts a program for training such volunteers. While the making of multiple copies or phonorecords of a work for general circulation requires the permission of the copyright owner, a problem addressed in section 710 of the bill, the making of a single copy or phonorecord by an individual as a free service for blind persons would properly be considered a fair use under section [107](#).

A problem of particular urgency is that of preserving for posterity prints of motion pictures made before 1942. Aside from the deplorable fact that in a great many cases the only existing copy of a film has been deliberately destroyed, those that remain are in immediate

danger of disintegration; they were printed on film stock with a nitrate base that will inevitably decompose in time. The efforts of the Library of Congress, the American Film Institute, and other organizations to rescue and preserve this irreplaceable contribution to our cultural life are to be applauded, and the making of duplicate copies for purposes of archival preservation certainly falls within the scope of “fair use.”

When a copyrighted work contains unfair, inaccurate, or derogatory information concerning an individual or institution, the individual or institution may copy and reproduce such parts of the work as are necessary to permit understandable comment on the statements made in the work.

The Committee has considered the question of publication, in Congressional hearings and documents, of copyrighted material. Where the length of the work or excerpt published and the number of copies authorized are reasonable under the circumstances, and the work itself is directly relevant to a matter of legitimate legislative concern, the Committee believes that the publication would constitute fair use.

During the consideration of the revision bill in the 94th Congress it was proposed that independent newsletters, as distinguished from house organs and publicity or advertising publications, be given separate treatment. It is argued that newsletters are particularly vulnerable to mass photocopying, and that most newsletters have fairly modest circulations. Whether the copying of portions of a newsletter is an act of infringement or a fair use will necessarily turn on the facts of the individual case. However, as a general principle, it seems clear that the scope of the fair use doctrine should be considerably narrower in the case of newsletters than in that of either mass-circulation periodicals or scientific journals. The commercial nature of the user is a significant factor in such cases: Copying by a profit-making user of even a small portion of a newsletter may have a significant impact on the commercial market for the work.

The Committee has examined the use of excerpts from copyrighted works in the art work of calligraphers. The committee believes that a single copy reproduction of an excerpt from a copyrighted work by a calligrapher for a single client does not represent an infringement of copyright. Likewise, a single reproduction of excerpts from a copyrighted work by a student calligrapher or teacher in a learning situation would be a fair use of the copyrighted work.

The Register of Copyrights has recommended that the committee report describe the relationship between this section and the provisions of section [108](#) relating to reproduction by libraries and archives. The doctrine of fair use applies to library photocopying, and nothing contained in section [108](#) “in any way affects the right of fair use.” No provision of section [108](#) is intended to take away any rights existing under the fair use doctrine. To the contrary, section [108](#) authorizes certain photocopying practices which may not qualify as a fair use.

The criteria of fair use are necessarily set forth in general terms. In the application of the criteria of fair use to specific photocopying practices of libraries, it is the intent of this legislation to provide an appropriate balancing of the rights of creators, and the needs of users.

§ 107. Limitations on exclusive rights: Fair Use

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.

In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include —

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.