



PERMANENT MEMORANDUM 17 FAIR USE OF COPYRIGHTED MATERIAL

POLICY DIGEST

Monitoring Unit:
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I. PURPOSE

This Permanent Memorandum governs "fair use" within all campuses of the Louisiana State University System. It is the policy of the LSU System and its various components to follow the United States Copyright Act of 1976 and its amendments.

II. POLICY

A. Faculty and Classroom Fair Use

Under U.S. copyright law, the concept of "fair use" permits reproducing portions of a copyrighted work without the copyright owner's permission when certain factors are met. Section 107 of the copyright law establishes those factors:

1. Purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purpose;
2. Nature of the copyrighted work;
3. Amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. Effect of the use upon the potential market for or value of the copyrighted work.

Unrestricted use of copyrighted materials for educational purposes alone may be insufficient reason to allow "fair use." Also, the fact that a work is not published does not allow ignoring of the concept of "fair use."

Guidelines endorsed by Congress relate to classroom copying for educational purposes; these guidelines establish minimum permissible unauthorized copying. These prohibitions for making multiple copies for academic use without permission are:

1. Unauthorized copying may not create, replace, or substitute for anthologies, compilations or collective works, whether or not such unauthorized copies are collected and bound together or are provided separately;
2. Unauthorized copies may not be made of "consumable" works, including workbooks; exercises; standardized tests; test booklets; answer sheets and the like.
3. Unauthorized copying may not substitute for the purchase of books, publisher's reprints or periodicals;
4. Persons in positions of authority, such as a university administrator, a department head,

an instructor or others may not attempt to exert pressure on office staff, library staff or others to make unauthorized copies;

5. The same instructor cannot copy the same item without permission from semester to semester;
6. No charge shall be made to the student beyond the actual cost of the copying

Multiple copying is allowed in the following situations:

1. Individual teacher has a flash of motivation to use a work shortly before the information is to be used, rendering it unreasonable to request permission.
2. Limitations prescribing the amount of copying permitted for the following works are:
 - a. If a complete article, story or essay is copied, the amount copied must be less than approximately 2,500 words.
 - b. If the work is excerpted and copied, it must be no longer than approximately 1,000 words or 10% of work, whichever is shorter.
 - c. One chart, graph, diagram, drawing, cartoon, picture, or other illustration may be copied per book or per periodical issue.
 - d. Short poems may be copied if the poem is less than 250 words and printed on no more than two pages.
 - e. Excerpts from longer poems may be copied if the excerpt is no longer than 250 words.
3. Copying is for one course in the school in which copies are made.
4. No more than one short poem, article, story or essay or two excerpts may be copied from works by the same author.
5. No more than three works or excerpts may be copied from same collective work or periodical volume during a class term.
6. No more than nine instances of multiple copying may occur for a single course in a single semester.
7. Original copyright notice must appear on all copies.

B. Library Fair Use

Under Section 108 of the copyright act, a library may copy material for its reserve collection following guidelines similar to those for multiple copying for classroom use:

1. The same copied material may not be distributed in successive semesters without copyright clearance;
2. Only one copy may be distributed for each student;
3. Material must include the original copyright notice on first page of the copies;
4. Students may not be assessed any fee beyond actual cost of copying.

Faculty member's requests for multiple copies to be placed on reserve must meet these guidelines:

1. Amount of material should be reasonable as determined by the library;
2. Number of copies should be reasonable as determined by the library;
3. Materials should contain copyright notice; effect should not be detrimental to market for the work;
4. The library should own copy of the work.

Electronic reserve guidelines should include these factors:

1. Materials can be made available over campus network but access is restricted to enrolled students;
2. Material may be on reserve only one semester, with termination of access at end of semester;
3. Copyright notice must be included;
4. Electronic reserve can point to a digitized image owned or licensed by the library;
5. Electronic reserve materials are limited to:
 - a. Single articles or chapters; a few charts, graphs, or illustrations; or other small parts of a work;
 - b. Small part of the materials required for course;
 - c. Copies of the materials that instructor or library already legally possess
6. Permission is obtained for materials used repeatedly by same instructor for same class.