COPYING GUIDELINES FOR CLASSROOM AND RESEARCH USE

I.介绍

A. 目的

当前的版权法授予版权所有者对其作品的若干权利。复制，无论是通过复印或其他方式，以及使用受版权保护的材料都必须受这些权利的约束。大学已经采用了这些复制指南，为教职人员和员工，以实现程序上的明确性，降低侵权或声称侵权的风险，以及保持必要的灵活性，以满足具体复制需求。

这些指南的重要性得到了三个常见误解的强调。一个误解是，未经授权的复制为非盈利教育目的，总是可以作为“合理使用”。这不是真的。有些非常限定的使用是有定义的。第二，一个误解是，版权所有者不太可能采取措施来保护其版权。这也是不正确的，侵权的惩罚可能非常严厉。第三，一个误解是，没有版权声明（©）就表示该作品没有版权。这也不是绝对正确的，并且不应假定一个作品在没有声明的情况下是不受保护的。

版权法适用于所有复制形式，例如：(i) 商业复印中心，(ii) 大学的复印设施，(iii) 自助复印机，(iv) 由计算机（例如通过将受版权保护的材料发布到大学的计算机网络或互联网，或通过电子邮件将材料发送到班级分发列表）。如果您使用商业机构的服务，您可能需要提供版权人许可的证明。

大学鼓励教职人员在使用受版权保护的材料时，展示良好的判断力，并小心、有效地平衡以下指南与学生的最大利益，在使用版权材料时。

B. 标识受版权保护的材料

1. 出版作品：

   a. 所有在1989年3月之前出版的受版权保护的作品都必须在版权页或书的背面声明版权。这样的声明可以在书籍的版权页或期刊的版头找到。这样的声明指明了在判断许可是否需要时联系的人员。您不会因复制1989年3月前出版的作品而侵犯版权。

   版权法适用于所有复制形式，例如：(i) 商业复印中心，(ii) 大学的复印设施，(iii) 自助复印机，(iv) 计算机（例如通过将受版权保护的材料发布到大学的计算机网络或互联网，或通过电子邮件将材料发送到班级分发列表）。如果您使用商业机构的服务，您可能需要提供版权人许可的证明。

   大学鼓励教职人员在使用受版权保护的材料时，展示良好的判断力，并小心、有效地平衡以下指南与学生的最大利益，在使用版权材料时。

Revised October, 2001
date if, after normal inspection, you photocopy a work on which you cannot find a copyright symbol and you have no actual notice of copyright.

b. For works published after March 1989, no notice of copyright is required. Thus, in the absence of notice of copyright for such a work, it must be assumed that permission is required for copying or derivative use.

c. All copyrights prior to 1906 have expired. These works can be freely photocopied.

2. Unpublished Works, such as dissertations and thesis, may be protected by copyright.

a. Works created before January 1, 1978 are protected for the life of the author plus 70 years, but in no case will the protection expire before December 31, 2002. If such a work is published on or before that date, the copyright will not expire before December 31, 2047.

b. Works created after January 1, 1978, and not published enjoy copyright protection for the life of the author plus 70 years.

3. Public Domain Materials may be reproduced without permission.

a. U.S. Government Publications: All U.S. government publications may be copied without restrictions, except to the extent they contain copyrighted materials from other sources. U.S. government publications are documents prepared by an official or employee of the government in an official capacity. Note that federally commissioned works can be copyrighted, and that state government works may be protected by copyright.

It must also be noted that a commercial compiler or publisher of government materials (such as the West’s reference series) may properly claim copyright protection for independently authored notes and other materials accompanying such official declarations, as well as the sequence and organization of the official declarations themselves.

b. Judicial Opinions: The literal word order of judicial opinions is in the public domain, and may be used without restriction. This includes the text of judicial opinions contained in material prepared by commercial reporters or compilers, such as West’s. However, within such commercial publications, there is copyright protection covering the arrangements of cases, headnotes, annotations, and syllabi. As such, permission may be required in order to make
multiple copies of judicial opinions in full that include syllabi, headnotes, key numbers, or other copyright protected materials.

c. **Official Transcripts and Court Records in Litigated Cases:** These are generally considered to be public documents when filed and classroom use of the materials is permissible without obtaining permission. Be aware, however, that some law firms may assert copyright ownership for court documents that they have prepared and filed with the court on behalf of their clients.

d. **State Statutes, Regulations, Ordinances, Municipal Codes:** These materials are in the public domain, and reproduction of portions of their official text may be freely made without permission. However, if the text of a statute or of regulations is taken from a commercial source, (e.g. BNA, Patent, Trademark & Copyright Journal) then care must be exercised to copy only the text of the statute or regulations. Editorial comments and explanatory material are within the scope of the publisher’s copyright protection and permission to make multiple copies may be required.

4. **Fully Copyrighted Materials:** These are: Textbooks, Casebooks, Treatises, "Nutshells", and Commercial Outlines; Newsletters; and Periodicals.

5. **Note:** Some periodicals published by tax-exempt educational institutions, such as some law journals, expressly grant the right to copy for classroom use, subject to three conditions:

   a. Copies must be distributed to students at or below cost;
   b. The author and the journal must be identified on the copies; and
   c. The named copyright owner must be notified of the use.

**II. THE FAIR USE DOCTRINE: WHEN PERMISSION IS NOT NEEDED TO COPY**

An important limitation upon the rights of the copyright owner is the “Fair Use” doctrine. If the Fair Use doctrine applies, the copying of copyrighted material and the preparation of a derivative work without the copyright owner’s permission is allowable. The doctrine permits the use of copyrighted material in a “reasonable manner” without consent. Teaching, scholarship, and research are deemed reasonable. There are four factors that are to be considered in determining Fair Use, and in each case faculty members must determine for themselves the factors which weigh in favor of and against Fair Use. These factors are: 1) the purpose and character of the use, including whether such use is commercial in nature; 2) the nature of the copyrighted work; 3) the amount and substantiality of the portion used in relation to the copyrighted work; and 4) the effect of the use upon the potential market for or value of the copyrighted work.
A. Introduction

These guidelines for the copying and derivative use of copyrighted works are meant to be the minimum educational uses allowable without permission under the Copyright Act. These guidelines are not limits to the types of copying permitted under the standards of Fair Use (as outlined above), and there are instances in which copying that does not fall within the guidelines stated below will nonetheless be permitted under the criteria of Fair Use. Any copying that exceeds these minimum levels must be judged by the faculty members under the four factors of Fair Use as discussed above.

B. 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: 1) a chapter from a book; 2) an article from a periodical or short story; 3) a short story, short essay or short poem, whether or not from a collective work; and 4) a chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

C. Multiple Copies for Classroom Use

Permission is NOT REQUIRED for a teacher giving a course to make multiple copies (never to exceed more than one copy per pupil in a course) for classroom use or for discussion – with the FOLLOWING THREE LIMITATIONS:

1. The following requirements for BREVITY are met:
   
   a. Poetry may be copied without permission if it is:
      i. a complete poem of less than 250 words AND if printed on not more than two pages; or
      ii. from a longer poem, an excerpt of not more than 250 words.

   b. Prose may be copied without permission if it is:
      i. A complete article, story, or essay of less than 2,500 words; or
      ii. 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. (The numerical limits stated in “a” and “b” above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)

---

1 Some examples of Fair Use beyond these guidelines are:
   1. The inability to obtain another copy of the work because it is not available from another library or source or cannot be obtained within your time constraints.
   2. The intention to copy the material only once and not to distribute the material to others.
   3. The ability to keep the amount of material copied within a reasonable proportion to the entire work (the larger the work, the greater amount of material which may be copied).
c. **Illustrations** not requiring permission to copy include: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

d. "Special" works: Certain works in poetry, prose or in "poetic prose" often combine language with illustrations and are intended for children, though sometimes also for larger audiences. These works usually fall short of 2,500 words in their entirety. In spite of section “b” above, these “special” works may NOT be reproduced in their entirety. However, an excerpt of not more than two of the published pages of such a work, AND containing not more than 10% of the words found in that work may be reproduced without permission.

2. The conditions for **SPONTANEITY** are met:

   a. The copying is at the instance and inspiration of the individual teacher; and
   b. 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.

3. The conditions for **CUMULATIVE EFFECT** are met:

   a. The copying of the material is for only one course in the school in which the copies are made;
   b. 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; and
   c. There shall not be more than nine instances of such multiple copying for one course during one class term.

   (The limitations in “b” and “c” above do not apply to current news periodicals and newspapers and current news sections of other periodicals.)

**D. Absolute Restrictions**

1. 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.

2. Works intended to be “consumable” in the course of studying or teaching shall not be copied. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.
3. Copying shall not: a) substitute for the purpose of books, publishers' reprints or periodicals; b) be directed by higher authority; or c) be repeated concerning the same item by the same teacher from term to term.

4. No charge shall be made to the student beyond the actual cost of the copying.

III. OBTAINING PERMISSION TO USE OR COPY

If it is determined that a proposed use of copyrighted material does not fall under the Fair Use guidelines above or under the broader factors of Fair Use, and that permission is needed to copy a work, there are several ways to obtain it.

A. From the Copyright Holder: This may involve no more than locating another professor from available directories, such as the AALS directory for law professors, and contacting him or her.

B. From the Publisher: If the address of a publisher is not apparent from the work in question, it may be obtained from The Literary Marketplace (for books) or Ulrich’s International Periodicals (for journals).

C. Central Licensing Organizations, which administer licenses and collect royalties, may be contacted. One is the Copyright Clearance Center, which handles over eight thousand publishers. For an agreed upon fee, protected material may be copied as needed. There are other such arrangements for permission among certain publishers and many college bookstores. The Copyright Clearance Center is located at 222 Rosewood Drive, Danvers, MA 01923. Telephone: (508) 750-8400; FAX: (508) 750-4410.

D. Generally: Requests for permission should be sent with a stamped, self-addressed envelope, and should include: the title, author and/or editor, and the edition of the work to be duplicated; the exact material to be used, giving amount, page numbers, chapters, and if possible, a photocopy of the material; the number of copies to be made; the use to be made of the duplicated materials; the form of distribution (classroom, newsletter, etc.); whether or not the material is to be sold; and the type of reprint to be used (ditto, photocopy, offset, typeset, etc.).

IV. INFRINGEMENT

Normally, an infringer is liable to the copyright owner for the actual losses sustained because of the copying and any additional profits of the infringer. Where the monetary losses are nominal, the copyright owner usually will claim statutory damages instead of the actual losses. The statutory damages may reach as high as $20,000 (or up to $100,000 if the infringement is willful). In addition to suing for money damages, a copyright owner can usually prevent future infringement through a court injunction.

The Copyright Act specifically exempts from statutory damages any employee of a non-profit educational institution, library or archives who “believe and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under
Section 107." While the fair use provisions are admittedly ambiguous, any employee who attempts to stay within the guidelines contained in this policy should have an adequate good faith defense in the case of an innocently committed infringement.

V. **QUESTIONS** regarding this policy should be directed to the Provost’s Office.