

# NEW YORK UNIVERSITY UNIVERSITY POLICIES

<b>Title:</b>	Statement of Policy and Guidelines on Educational and Research Uses of Copyrighted Materials
<b>Effective Date:</b>	January 6, 2014
<b>Supersedes:</b>	Statement of Policy on Photocopying Copyrighted Materials
<b>Issuing Authority:</b>	Provost
<b>Responsible Officer:</b>	Senior Vice Provost for Research/ Dean of Libraries
<b>Who Needs to Know This Policy:</b>	Faculty, Administrators and Students

## LIST OF CONTENTS

- I. Summary: Policy and Guidelines
- II. Definitions
- III. General Copyright Principles
- IV. Materials Requiring Copyright Permission
- V. Materials Not Requiring Copyright Permission

Appendix 1: Use of Copyrighted Materials for Other Educational and Research Purposes

Appendix 2: Classroom (Safe Harbor) Guidelines

### **I. Summary: Policy and Guidelines**

This Statement of Policy (“Policy”)<sup>1</sup> is intended to assist members of the NYU community in determining answers to the following questions:

1. Is a work I wish to use for educational or research purposes protected by copyright?
2. If so, what are the steps I must take to ensure that I use the work without infringing the rights of the copyright owner?

As a general rule, authors or publishers of copyrighted material own the right to control the use of that material for many decades following authorship. Certain uses of copyrighted material require permission from the copyright holder. If permission is not obtained in those instances in which it is required, the user of the material will be exposed to a claim of copyright infringement. (*General Copyright Principles are detailed in Section III of this Policy.*)

---

<sup>1</sup> This Policy replaces the Statement of Policy on Photocopying Copyrighted Materials adopted by the Board of Trustees on May 9, 1983.

Faculty, students and staff make regular use of copyrighted materials in wide-ranging activities at NYU in furtherance of its educational mission, including:

- i. Use of copyrighted works as required course readings or viewings
- ii. Distribution of materials to students in a class or posting or scanning materials to a Learning Management System Website
- iii. Academic presentations or conferences
- iv. Use by individual students and faculty in conducting academic and scholarly research, publishing or course preparation
- v. Library reserves, in accordance with the reserve policies of the relevant Library
- vi. Use of materials in distance education or other online educational uses, whether restricted to NYU or generally accessible

This Policy is intended to support NYU's educational mission and rights under copyright law, while minimizing the risk to the NYU community of copyright infringement claims. It will be supplemented from time to time with implementation information and instructions, including Frequently Asked Questions that interpret and detail the applicability of this Policy to practical situations.

## **II. Definitions**

***“Coursepack”*** means a compilation of materials (*e.g.* a collection of articles, chapters from books, music, images, *etc.*), in print or digital form, that is collated by an instructor and assigned to students in lieu of an assigned textbook or other published materials.

***“Learning Management System Website”*** means a password-protected website or other system maintained by an instructor for use by students enrolled in a particular course.<sup>2</sup>

***“NYU Licensed Materials”*** means electronic materials, such as journals and databases (*e.g.* JSTOR), that are governed by contractual license agreements negotiated between NYU and the content provider. The terms and conditions of these license agreements specify the uses that can be made of these materials.

## **III. General Copyright Principles**

**A. *How long copyright lasts:*** Under the copyright law of the United States<sup>3</sup>, the creator of an original work of authorship is automatically granted a copyright to

---

<sup>2</sup> A Learning Management System Website must be an access-restricted website, typically restricted only to those registered in a course. A website open to the public does not fall within this definition and is not covered by this Policy. Instructors risk liability by relying upon open websites to display their course materials.

<sup>3</sup> Copyright Law of 1976, U.S. Code, Title 17.

such work for a specified period of time. The basic term of a current U.S. copyright is the life of the author plus 70 years. For works of corporate authorship, also called “works for hire,” the term is the lesser of 95 years after publication or 120 years after the creation of the work. Different rules apply for works created before 1978, and for some foreign works.

- B. *What can be copyrighted:*** Copyright law protects a broad range of creative works, including literary works<sup>4</sup>, musical works, dramatic works, choreographic works, pictorial, graphic and sculptural works, motion pictures and other audiovisual works, sound recordings and architectural works. Works of “original authorship embodied in a tangible form” include but are not limited to print, digital, and electronic material, images and works of art, computer code, film, and web pages. Copyright law applies to all such works.
- C. *The rights of a copyright owner:*** Copyright law gives copyright owners the exclusive rights to copy, reproduce, distribute, perform, and display works, as well as to create derivative works based on the original. The copyright owner’s exclusive right to make copies also includes the right to make any digital copies. Accordingly, use of a work during the term of the copyright requires either permission from the copyright holder or reliance on one or more exceptions incorporated into copyright law. (*Fair Use and other exceptions that apply to educational uses of copyrighted materials are discussed in Section V of this Policy.*) Failure to establish one or the other will expose the user to a claim of copyright infringement for which the law provides remedies, including payment of money damages to the copyright owner.
- D. *Transfer of Rights:*** Copyright may be transferred from the original author of a work to a publisher or other party. Copyright may also be transferred in parts, such that different parties may hold the rights to publish a work in specific languages, regions of the world, or formats (film, audio, print, *etc.*)

#### **IV. Materials Requiring Copyright Permission**

Unless materials are covered by one of the categories in Section V (*Materials Not Requiring Copyright Permission*, below) this Policy requires that copyright permission be obtained, even if the material is used for educational or research purposes.

There are two main options available for obtaining permission: A. NYU Bookstores, or B. directly contacting the copyright holder. When preparing course materials, faculty and staff should consult with NYU Libraries before seeking copyright permission, because NYU may already have paid for or otherwise obtained a license to use the work. (*See Section V.C. –NYU Licensed Materials.*)

---

<sup>4</sup> The term “literary works” for purposes of U.S. copyright law is expansive and includes any poetic or prose output that is more than a simple statement of fact. For instance, under the copyright law, literary works would include scientific articles, as well as poetry, essays, and fiction.

- A. **NYU Bookstores:** NYU Bookstores Coursepack Service creates and sells Coursepacks in print or digital form, clearing all permissions for copyrighted materials. Most copyright holders charge royalties when granting permission to reproduce their materials, and these royalties are incorporated into the cost of a Coursepack. The Coursepack Service may also be used to obtain permission to post materials to Learning Management System Websites. Faculty can inquire with NYU Bookstores to determine whether it is possible to obtain permission for other types of uses, such as distributing materials at conferences, or including them in publications. NYU Bookstores utilizes a third party service to obtain permissions. Coursepacks can be delivered both digitally and in print form, and links to digital coursepacks can be made available on Learning Management System Websites.
- **If a faculty member utilizes NYU Bookstore’s Coursepack Services, or another NYU-approved vendor<sup>5</sup>, to prepare coursepacks , NYU will defend and indemnify the faculty member against any copyright infringement claims.**
- B. **Contacting the copyright holder:** Faculty also have the option to obtain permissions themselves by directly contacting the copyright holder. The process of obtaining permission can take several weeks or more, and thus, faculty are urged to provide sufficient lead time to clear these rights.

## V. **Materials Not Requiring Copyright Permission**

Materials covered by any of the following subsections A through F can be used for all educational and research purposes at NYU, without seeking permission from the copyright holder.

### A. **Materials in the Public Domain**

After the term of copyright expires, a work will lose its copyright protection and enter the public domain, where it may be used freely without permission.

In addition, works created by officers and employees of the United States government are, typically, not covered by copyright protection and are within the public domain. This is a large category of materials that includes government reports and data and informational publications of governmental agencies. Many of these can be found in NYU Libraries or from governmental resources on the web. However, works created by State governmental officials are still subject to copyright, as are many works created by other persons with funding received from the United States government.

---

<sup>5</sup> “NYU-approved” coursepack vendors are those approved by the Office of the Provost, via review by the Vice Provost for Research, the Dean of Libraries, and Office of General Counsel.

Just because a work does not contain a copyright notice (*e.g.*, © 2010 John Doe) does not mean the work is not copyright protected. In fact, in 1989, the United States signed an international convention called the Berne Convention, which states that any work is automatically considered copyrighted once it is fixed in a tangible medium (including as a digital copy). Thus, under the Berne Convention, a work can still be protected by copyright even if it does not contain any affirmative statement of copyright ownership or a copyright notice.

Please consult NYU Libraries for assistance in conducting public domain analyses by emailing to: fairuse@nyu.edu; the Libraries can in turn consult with the Office of General Counsel where necessary.

## **B. Materials on the Web**

It is sometimes thought that materials available on the open web are in the public domain, or otherwise free to reuse. In fact, most works posted on the web are protected by copyright, and therefore reproducing or distributing web content may require permission from the copyright holder, just as with print materials. **However, simply creating links to legally posted web materials typically does not require permission.** Such links can be included on Learning Management System Websites or other web sites. In addition, links can be provided to NYU Licensed Materials as discussed in Subsection C.

## **C. NYU Licensed Materials**

NYU, primarily through NYU Libraries, licenses a great deal of electronic content, including journals, newspapers, other publications, audio, and still and moving images. **Accordingly, before seeking copyright permission or conducting a Fair Use analysis, faculty and staff should first determine whether NYU has already paid for or otherwise obtained a license to use the work for educational purposes.** The NYU Library website contains links to many NYU Licensed Materials. Generally, access to these materials is restricted to members of the NYU community or to people located physically within the Library. NYU Licensed Materials can be made accessible through electronic links that can be placed on electronic reserves or Learning Management System Websites. These materials may be used for course readings or other uses that are restricted to members of the NYU community. Faculty should provide links to NYU Licensed Materials, rather than copying such materials in Coursepacks or onto Learning Management System Websites. Please consult NYU Libraries for assistance in creating links to these materials.

## **D. Open-Source and Open-Access Materials**

Increasingly, copyrighted materials are becoming available under Open-Source, Open-Access<sup>6</sup>, or similar licenses that allow for these materials to be used (and sometimes

---

<sup>6</sup> “Open-Source” ordinarily refers to access to software and source code, while “Open-Access” is typically associated with journal literature and other scholarly content. This type of licensing takes many forms, but typically permits broad use of the materials and may also include the right to create derivative works of the material on the condition that the new work be similarly licensed on an Open-Source or Open-

copied) without seeking specific permission from the copyright holder. Examples include Creative Commons licenses and the Mozilla Public License 2.0 for open software. The terms “Open-Source” or “Open Access” do not mean the work is in the public domain; to the contrary, they mean only that the terms by which one may use a work are controlled by a standard license.

It is likely to be obvious from the markings and notations on the face of a work if it is subject to an Open-Source or Open-Access license. There are many such “open” licenses, which vary as to the rights they grant to users. For example, commercial uses may be prohibited, or attribution to the original material may be required. The specific terms of a particular license should be reviewed prior to using the material. Website terms and conditions may also provide guidance as to whether and how materials may be used.

### **E. Fair Use and the Safe Harbor Guidelines**

The phrase “Fair Use” is often used in the academic community to support the copying and sharing of copyrighted materials. However, the fact that a work is being used for an educational purpose does not necessarily mean that it is considered Fair Use under copyright law.

***Conducting a Fair Use analysis:*** In order to determine whether permission is required for educational or research uses of copyrighted materials, the contemplated use should be subjected to a Fair Use analysis under this Policy prior to the occurrence of the use. Fair Use provides a legal defense to an assertion of copyright infringement. A finding of Fair Use of copyrighted material requires a two part analysis:

- 1) whether the use is for the purpose of "criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research"; and
- 2) if so, how would the particular use be categorized under the following four (4) Fair Use factors:
  - A. the purposes and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes and whether the use transforms the original work to serve a new use or purpose;
  - B. the nature of the copyrighted work, including whether it is informational in nature, or more creative/artistic in nature;
  - C. the amount and substantiality (both in length and in importance) of the portion used in relation to the copyrighted work as a whole; and

---

Access basis. For example, Open- Source software allows for free distribution of both the compiled software and the source code, enabling others to modify and create new programs derived from the original code. Similarly, Open-Access licenses may permit readers to obtain full-access to journal articles online without having to pay fees. These types of licenses are designed to remove the traditional barriers of access and facilitate broader dissemination and evolution of ideas.

- D. the effect of the use upon the potential market for or value of the copyrighted work.

A Fair Use analysis is highly case-specific and must be conducted each time materials are to be used. Support in conducting a Fair Use analysis may be obtained from NYU Libraries through [fairuse@nyu.edu](mailto:fairuse@nyu.edu), which may also consult when necessary with NYU's Office of General Counsel. To demonstrate compliance with this Policy, a written (or electronic) record of the Fair Use analysis should be kept. (*For further guidance in conducting a Fair Use analysis, see Appendix I to this Policy.*)

***The “Safe Harbor” guidelines:*** In 1976, publishers, authors, and representatives of various educational institutions attempted to create Fair Use guidelines for educators distributing copyrighted works as course materials. The resulting guidelines are referred to as the “Classroom Guidelines,” or the “Safe Harbor Guidelines.” Although the Safe Harbor guidelines are not “the law,” faculty and others at NYU may generally use materials without permission from the copyright holder when the requirements of the Safe Harbor guidelines are met. While these guidelines refer explicitly only to photocopying of materials for classroom use, they may be applied by analogy to other types of uses, including electronic use. (*See the Safe Harbor Guidelines, which are set forth in Appendix 2 to this Policy, for more detailed information.*) **It is important to note that, if a contemplated use of material does not fall within the Safe Harbor Guidelines, it may still qualify as Fair Use under the four factor analysis set forth in Appendix 1.**<sup>7</sup> Therefore, if a proposed use does not meet the Safe Harbor Guidelines, further analysis of the Fair Use factors in Appendix 1 should be conducted before determining whether permission is required.

***Fair Use and Course Materials:*** Courts have found that multiple copying of excerpts from books (or other works) by commercial copy shops for sale to college students (*i.e.*, Coursepacks) is not a Fair Use and constitutes copyright infringement.<sup>8</sup> More recently, a federal trial court found that copying of excerpts from books, when undertaken by nonprofit educational institutions for use by enrolled students, may qualify as Fair Use upon weighing key factors, including whether the excerpt is sufficiently small in amount, whether permissions are readily available at a reasonable price and in a convenient format, and whether the work is fiction or nonfiction.<sup>9</sup> Thus, even where a

---

<sup>7</sup> As stated in the legislative history to the Safe Harbor Guidelines, “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. 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 for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals, House Committee on the Judiciary, Report on Copyright Law Revision, H. Rept. 94-1476, 94th Cong., 2d sess., at 68 (1976).

<sup>8</sup> *See Basic Books, Inc. v. Kinko's Graphics Corporation*, 758 F. Supp. 1522 (S.D.N.Y. 1991); *Princeton University Press v. Michigan Documents Services, Inc.*, 99 F.3d 1381 (6th Cir. 1996). Under these cases, the creation and distribution of Coursepacks does not satisfy Fair Use principles, given the commercial nature of the copy shop business and the finding that such use interferes with the publisher's market for permissions, licenses and custom-published textbooks. This same legal analysis also applies with digital works

<sup>9</sup> *Cambridge University Press v. Becker et al.*, 863 F.Supp.2d 1190 (N.D. Ga. 2012).

digital copy of a work is provided through Learning Management System Websites, it will not automatically qualify as Fair Use, but must be analyzed under the four factors set forth above.

## **F. Performance or Displays in the Classroom**

While copyright owners have the exclusive right over the public performance of works, including the screening of films, the Copyright Act contains a specific exception permitting the performance or display of works in the course of face-to-face teaching activities conducted in a classroom or similar space devoted to instruction.<sup>10</sup> This allows, for example, an instructor to show a film or a student to recite a poem in class. This exception does not apply to copying or distributing materials for classroom use.

The “face-to-face” teaching exception does not apply to courses that are conducted online. Instead, a separate exception commonly called the “TEACH Act”<sup>11</sup> governs transmissions of performances and displays of copyrighted works for online course sessions. Under the TEACH Act, instructors may display copyrighted works if the amount displayed is comparable to what is typically displayed during the course of a face-to-face class. However, the TEACH Act has two principal limitations. First, performances of dramatic works, such as films, plays, or choreographed works, are limited to “reasonable and limited portions” of such works. Second, there are a number of technological conditions that must be met for the TEACH Act to apply, including restricting access to enrolled students. Online performances and displays not covered under the TEACH Act (including educational resources made publicly available via the web) may nevertheless fall within Fair Use, and should also be analyzed under the Fair Use guidelines of this Policy (*see* Section E).

### **Notes:**

- 1. Dates of official enactment and amendments:** Revised January 6, 2014
- 2. History:** Reviewed by the Faculty Senators Council, November 2013
- 3. Cross References**

---

<sup>10</sup> 17 U.S.C. § 110.

<sup>11</sup> 17 U.S.C. 110 (2)

## Appendix 1

### Use of Copyrighted Materials for Other Educational and Research Purposes

#### A. Background

A copyright recognizes the creative and educational value of authorship. Copyright owners have broad and exclusive rights over the reproduction and distribution of their works; however, there are some limitations on these rights. The most significant limitation on the exclusive rights of a copyright owner is the concept of "Fair Use." Fair Use establishes that certain uses of copyrighted works are allowed without the permission of the copyright holder. These uses include criticism, commentary, news reporting, teaching, scholarship, and research. Application of the Fair Use exception requires a balancing test that analyzes a specific use according to four factors, set forth below, in order to determine whether that use infringes on a copyright.

#### B. Fair Use Principles and Analysis

Courts have not established a clear test to define when Fair Use ends and infringement begins. Instead, courts apply each unique factual scenario to the four Fair Use factors to make a case-by-case decision as to the fairness of specific uses. A famous American jurist, Judge Learned Hand, once exclaimed that the concept of Fair Use "is the most troublesome in the whole law of copyright."

Each of the four factors involve a number of questions that are commonly asked by courts when evaluating the applicability of Fair Use:

##### **Factor 1: The Purpose and Character of the Use:**

- Is the use "transformative," *i.e.* does the use change, repurpose, or recontextualize the original work (such as a parody or satire), or otherwise add value to the original work? If so, this weighs in favor of a finding of Fair Use.

*Example:* The use of textbooks (or other teaching materials, such as workbooks) as course readings would typically not be considered transformative, as these types of works are intended to be used for teaching purposes. By contrast, the use of news articles or popular songs, for example, as course materials to be analyzed and critiqued would fare better as a transformative use, because such works were not created specifically for educational or teaching purposes.

- Will you charge any fee for access, including copying charges etc.? Fair Use is less likely to apply if this is the case, or if the use can otherwise be considered "commercial."

- If a work is being used in a class, is access to it restricted solely to those enrolled? Is it password protected? To qualify as Fair Use, access should be tailored to the educational purpose, *e.g.* course materials should be made available only to enrolled students, rather than posted on publicly accessible websites.

**Factor 2: The Nature of the Copyrighted Work:**

- Is the work primarily factual or informational, or is it a highly expressive or creative work (*e.g.* poetry, music)? Expressive or creative works typically receive greater copyright protection than works that are comprised mostly of facts, such as a simple timeline or graph.
- Is the work published or unpublished? Generally, unpublished works are entitled to greater protection and less likely to qualify as Fair Use.
- Is the work “consumable,” meaning an educational workbook or form that is intended to be purchased, as opposed to copied? If so, this weighs against a finding of Fair Use.

**Factor 3: The Amount and Substantiality of the Portion used in Relation to the Work as a Whole:**

- Is the entire work used, or only a portion? Commonly, the smaller and less important the portion used in relation to the whole work, the lower the risk of infringement. However, a use is not necessarily a Fair Use simply because the quantity used is small -- where the portion used is critical to the original work, even if quantitatively brief (*i.e.* the “heart of the work”), this weighs against a finding of Fair Use.
- Is the amount used closely tailored to the educational and/or research purpose? This supports a finding of Fair Use. If a large portion or an entire work is used, this should be because the amount is necessary to achieve the educational purpose.
- If the work is an image, what is the size and resolution of the image? Courts have determined that smaller sized or lower-resolution copies of images (*e.g.* “thumbnails”) are analogous to using a smaller amount of the original work. Even when an image is used in its entirety, this factor will not necessarily defeat a finding of Fair Use if other factors are satisfied.

**Factor 4: The Effect of the Use upon the Market for the Work:**

- Does the use render the original copyrighted work less marketable? In other words, does the use substitute for purchasing or licensing the work from the copyright owner so as to adversely affect the market for the work? If so, this is a good indication that the Fair Use exception will not

apply, even if the impact is relatively marginal. This factor is typically given strong consideration by courts.

- Would similar uses on a larger scale, even within NYU, impact the market for the work? This weighs against a finding of Fair Use, even if the specific use in question has relatively minimal impact.

A Fair Use analysis requires a careful balancing of each of these four factors. Although all four must be examined, not all factors need to weigh in favor of or against Fair Use. For example, if the second factor weighed against Fair Use but the other three weighed in favor, Fair Use would likely apply. Conversely, if only one of the four factors weighed in favor, Fair Use is unlikely to be met. Ordinarily, courts also tend to assess the element of “good faith,” or the intent of the person who has used the copyrighted work.

### **C. Can Attributions or Disclaimers Help Establish Fair Use?**

The short answer is “no.” Some mistakenly believe it is Fair Use to use a copyrighted work, so long as the work is attributed to the author or copyright owner. However, copyright law does not take attribution into consideration when analyzing Fair Use. In addition, including a “disclaimer” that the use is not associated with or endorsed by the copyright holder does not help to establish Fair Use.

### **D. Situations Involving Multiple Copyright Owners**

When dealing with artistic media and music, additional complexities may exist where the content is owned by one party, performance rights are owned by a different party, and distribution rights are owned by a third party. Similarly, with print media, there may be different copyright owners for different portions of the work, such as text, images, or annotations. These issues and each copyright owner’s rights must be considered when seeking permission(s) to use a work, or analyzing the use of such work under Fair Use.

### **E. Special Considerations for Electronic Works**

When conducting a Fair Use analysis for an electronic work, both the quality of publication and ease of distribution are usually important considerations. For instance, when a work can be easily redistributed via the internet, it is more likely to impact the market for the original work. Distinctions in the quality of reproduction can also be relevant. For example, reproductions that are of inferior quality and used for a different or “transformative” purpose have in some cases been permitted by courts as Fair Use (*e.g.* digital “thumbnail” copies of images that could not be enlarged without loss of resolution). Reducing the size and resolution of an image is not a guarantee of Fair Use, but can in some circumstances lower the risk of infringement.

## Classroom (Safe Harbor) 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; and
- 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 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:  
By Sheldon Elliott Steinbach

Author-Publisher Group:  
Authors League of America:  
By Irwin Karp, Counsel.

Association of American Publishers, Inc.  
By Alexander C. Hoffman  
Chairman, Copyright Committee