COPYRIGHT BASICS
Please see NWTC’s Comprehensive Copyright Policy for more detail

Before you copy anything (such as articles from magazines, chapters from books or textbooks, videotapes, sound recordings, web pages, images, or software), make sure that you know if it is copyright protected.

"COPYING" INCLUDES:
• Making a copy (reproducing)
• Using a work as the basis for a new work (creating a derivative work)
• Electronically distributing or publishing copies (distributing a work)
• Publicly performing music, prose, poetry, a drama, or playing a video or audio tape or a CD-ROM, etc. (publicly performing a work)
• Publicly displaying an image on a computer screen or otherwise (publicly displaying a work)

If you don’t know that you are infringing, you will be liable for damages - only the amount of the award will be affected. Then there are attorneys’ fees...

If your activities violate NWTC’s Comprehensive Copyright Policy, you will be personally responsible for your own defense. In other words, if you do not follow this Policy and any licenses that affect your rights to use others’ works, the College will not defend you. You will be on your own for the cost of legal defense and damages. Your personal liability insurance will probably not cover these expenses.

WHAT CAN I FREELY COPY?
Copyright does not protect, and anyone may freely use the following:

• Works that lack originality — logical, comprehensive compilations (like the phonebook)
• Unoriginal reprints of public domain works
• Works in the public domain (works published on or before December 31, 1922)
• Freeware (not shareware, but really, expressly, available free of restrictions— this may be protected by law, but the author has chosen to make it available without any restrictions)
• US Government works
• Facts
• Ideas, processes, methods, and systems described in copyrighted works

WHAT CAN I COPY WITH RESTRICTIONS?
If the law protects a work you wish to use, you must ask for permission from the copyright owner unless your planned use is covered by one of the law’s exemptions, such as fair use.
**WHAT IS FAIR USE?**

**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 chapter from a book
- an article from a periodical or newspaper
- a short story, short essay or short poem whether or not from a collective work
- 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

1. The copying meets the test of **brevity** as shown in the chart below and tests of **spontaneity** and **cumulative effect** as defined below and
2. Each copy includes a notice of copyright (Minimum requirement is the inclusion of the copyright notice which appears on the title page of the work or its reverse side and the page number. A full bibliography style reference is desirable.)

**Test of Spontaneity**
1. The copying is at the instance and inspiration of the individual teacher
2. 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

**Test of Cumulative Effect**
1. The copying of the material is for only one course in the school in which the copies are made
2. 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
3. There shall not be more than **nine** instances of such multiple copying for one course during one class term

The limitations stated in 2 and 3 above shall not apply to current news periodicals and newspapers and current news sections of other periodicals

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**FAIR USE GUIDELINES CHART**

<table>
<thead>
<tr>
<th>Material</th>
<th>Instructor’s Copy</th>
<th>Multiple Copies</th>
<th>Cumulative Use Per Class Per Semester</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiction Nonfiction Textbooks, Theses</td>
<td>1 chapter</td>
<td>1 000 word excerpt or 10%</td>
<td>2</td>
</tr>
<tr>
<td>Stories Essays Anthologies Encyclopedias</td>
<td>1 story or essay</td>
<td>2 500 word excerpt or story</td>
<td>2 3</td>
</tr>
<tr>
<td>Poetry</td>
<td>1 article</td>
<td>250 word excerpt or poem</td>
<td>2</td>
</tr>
<tr>
<td>Periodicals</td>
<td>1 article</td>
<td>2 500 word excerpt or essay</td>
<td>3</td>
</tr>
<tr>
<td>Cartoons Charts Pictures</td>
<td>1 per book</td>
<td>Same as above</td>
<td>2 3</td>
</tr>
<tr>
<td>Lectures Sermons Speeches</td>
<td>1 per book or issue</td>
<td>Same as above</td>
<td>2 3</td>
</tr>
<tr>
<td>Computer Software and Documentation</td>
<td>1 archival copy</td>
<td>Small excerpts only of documentation</td>
<td>?</td>
</tr>
</tbody>
</table>
Some additional portion limits to keep in mind to meet the test of brevity

Motion media  up to 10% or 3 minutes whichever is less
Music       up to 10% or 30 seconds whichever is less
Photos and images up to 5 works from one author up to 10% or 15 works whichever is less from a collection

WHAT IS PROHIBITED?

Notwithstanding any of the above fair use exemptions the following shall always be prohibited

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 are accumulated or reproduced and used separately

2 There shall be no copying in 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

3 Copying shall not:
   substitute for the purchase of books publishers reprints or periodicals
   be directed by higher authority
   be repeated with respect to 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 photocopying

NOTE: The guidelines outlined here are not law and they are not the text of the law itself However legal opinion states that the courts are likely to give credence to them because of the nature of the 1976 parties represented in stating minimum standards

In addition the presence or absence of a copyright notice no longer carries the significance it once did because the law no longer requires a notice Absence of a notice means virtually nothing Even if there is no copyright notice you must assume that the material is copyright protected

FAIR USE RULES OF THUMB

If the guidelines are not helping you with your specific situation try to stay within these Rules of Thumb Interpret them conservatively

Rules of Thumb for Coursepacks

1 Limit coursepack materials to single chapters single articles from a journal issue several charts graphs or illustrations other similarly small parts of a work

2 Include any copyright notice on the original and appropriate citations and attributions to the source

3 Obtain permission for materials that will be used repeatedly by the same instructor for the same class

Rules of Thumb for Using Audio Visual Materials for Educational Purposes

Educational institutions and governmental agencies are authorized to publicly display and perform others works in the course of face to face teaching activities and to a limited degree in broadcasts These rights are described in Sections 110 (1) and (2) respectively of the copyright law However there are some limitations

Audio visual materials must
   Be shown as part of systematic instructional activities
   Be directly related to teaching (and not used as a recreational or diversionary endeavor)
   Be shown in a classroom or similar place used as a classroom
   Be shown without any purpose of direct or indirect commercial advantage

Television programs (except news programs) taped off the air can only be used for viewing in class if they
   Are used within 10 school days of being recorded
   Include the copyright notice as recorded
   Are only shown again once when instructional reinforcement is necessary
   Are erased within 45 days after the date of recording
   Meet the other criteria listed above for using audio visual materials
Rules of Thumb for Digitizing and Using Images for Educational Purposes

1. Is the image you wish to digitize readily available online or for sale or license at a fair price?

If YES: Point to, purchase or license the image. Do not digitize it unless you are in the process of negotiating a license. If you have a “contract pending,” digitize and use the image in accordance with these Rules of Thumb until the license is finalized and you have received the licensed digital image.

If NO: Digitize and use the image in accordance with the following limitations:

Limit access to all images except “thumbnails” to students enrolled in the class and administrative staff as needed. Terminate access at the end of the class term.

Students may download, transmit and print out images for personal study and for use in the preparation of academic course assignments and other requirements for degrees, may publicly display images in works prepared for course assignments etc., and may keep works containing images in their portfolios.

2. Periodically review digital availability. If a previously unavailable image becomes available online or for sale or license at a fair price, point to or acquire it.

What Do I Do When It is Not a Fair Use?

In order to copy or otherwise use materials, including software, where (a) the materials are copyrighted, (b) use exceeds what is permitted by license or the Rules of Thumb, and (c) the four factor fair use test (See the NWTC Comprehensive Copyright Policy for further information) indicates that the use is likely not fair, permission should be obtained from the copyright owner.

Who Can Help Me Obtain Permission To Copy?

NWTC’s Vice President of Administration is the Copyright Officer for the College. The operational duties of copyright permission are the responsibility of the Printing Services Manager and the Library Services Manager. All questions concerning copyright should be directed to these individuals.

The preparation of the request for permission to use copyrighted material is the responsibility of the educator. The LRC, Green Bay Campus, will provide forms and assistance in the preparation of the request and will submit the forms to the copyright holder. Copies of the request and resulting action will be maintained on file, for record, in the LRC with a copy to the individual and one copy to the division or appropriate subject matter coordinator.

The request must include the following information as appropriate:

- Title, Author(s), Editor(s), or Publisher;
- Edition and/or copyright;
- Exact amount of material to be used (i.e. page numbers, lines, etc.);
- Reference to the initial contact individual, by name, in the letter if the initial contact was made by phone;
- Nature of the use (i.e. how many times, when and with whom the material will be used);
- How the material will be reproduced and distributed

Contact the LRC Green Bay Campus for full details. Do not proceed with the act of copying until approval is received and on file.

This document does not answer all the questions; it is not intended to replace legal counsel. It is intended to alert you to potential problems you face as a professional educator if and when you copy someone else’s work, for whatever reason.

Further information may be obtained through books and periodicals on file in the LRC, Green Bay Campus, such as:


The majority of this policy was taken with permission from Georgia Harper’s excellent “Copyright Crash Course” located on the University of Texas’s web site at http://www.utsystem.edu/ogc/intellectualproperty/cpritndex.htm. This resource is recommended for anyone who wishes to learn more about copyright.