F2.5 Copyright Law and Policy

Printed materials (including music, computer programs, motion pictures, and dramatic works) and other audio-visual works are protected under the Copyright Law. The Copyright Law does recognize a judicial doctrine of "fair use" which limits the rights of the copyright owner under certain circumstances. Guidelines have been provided to assist teachers and scholars interested in non-profit research and/or classroom use of copyrighted materials. Infringement of the copyright law involves significant monetary penalties. East Central University expects all faculty to respect the rights of copyright holders. If a faculty member is unsure whether their activities infringe on the rights of copyright holders, they should seek copyright clearance from the owner.

F2.5.1 Exclusive Rights in Copyrighted Works

The owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

1. To reproduce the copyrighted work in copies or phono records;
2. To prepare derivative works based upon the copyrighted work;
3. To distribute copies or phono records of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and
5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

F2.5.2 Limitations on Exclusive Rights: Computer Programs

Notwithstanding the provisions of "Exclusive Rights in Copyrighted Works," it is not an infringement for the owner of a copy of a computer program to make or authorize the making of another copy or adaptation of that computer program provided:

1. That such a new copy or adaptation is created as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner, or
2. That such a new copy or adaptation is for archival purposes only and that all archival copies are destroyed in the event that continued possession of the computer program should cease to be rightful.

Any exact copies prepared in accordance with the provisions of this section may be leased, sold, or otherwise transferred, along with the copy from which such copies were prepared, only as part of the lease, sale, or other transfer of all rights in the program. Adaptations so prepared may be transferred only with the authorization of the copyright owner. (As amended by P.L. 96-517, 10, 94 Stat. 3028, December 12, 1980.)

F2.5.3 Guidelines on “Fair Use” of Media for Educational Purpose

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of sections 106 and 106A of the previously mentioned P.L. 96-157, 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.

F2.5.4 Guidelines for Classroom Photocopying

F2.5.4.1 Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at their individual request for their 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 newspaper;
3. A short story, short essay or short poem, whether or not from a collective work;
4. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

F2.5.4.2 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 tests of brevity and spontaneity as defined below; and, meets the cumulative effect test as defined below; and,
2. Each copy includes a notice of copyright.

F2.5.4.3 Definition: Brevity

1. 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.
2. 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 "1" and "2" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.
3. Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
4. "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 "B" 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 produced.

F2.5.4.4 Definition: Spontaneity

1. The copying is at the instance and inspiration of the individual teacher, and
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.

F2.5.4.5 Definition-: 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.)

F2.5.4.6 Prohibitions as to Guidelines Above

Notwithstanding any of the above, the following shall 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 therefrom are accumulated or reproduced and used separately.
2. 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.
3. Copying shall not:
    - Substitute for the purchase of books, publisher's reprints or periodicals;
    - Be directed by higher authority;
    - Be repeated with respect to the same item by the same teacher from term to term.
    - No charge shall be made to the student beyond the actual cost of the photocopying.