

**PHOTOCOPYING OF COPYRIGHTED MATERIALS
IN LAW TEACHING**

Report of the AALS Special Committee on Copyright

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INTRODUCTION

The purpose of this statement is to provide guidance in avoiding the wrongful use of copyrighted materials by faculty and staff of member schools. Recent litigation has raised the issue of personal and institutional liability for copyright infringement. This statement is a response to the many questions about the use of copyrighted materials received by the AALS office.

This statement reflects the considered judgment of some copyright teachers and is intended to provide guidance rather than to serve as a statement of policy, as a standard, or as a legal opinion governing specific uses. Given the uncertainty that necessarily surrounds the equitable doctrine of Fair Use, advice should be sought when in doubt.

This statement consists of three parts. The first section contains an overview of copyright principles, the second section deals with law school uses of copyrighted materials likely to be challenged, the final section deals with methods of obtaining permission, when required.

Two common misconceptions on the part of academic users of photocopied materials have resulted in copyright infringement actions. One misconception is that duplication for non-profit educational purposes, broadly defined, is clearly permitted as a fair use. This is not so. As indicated below, the determination of when the fair use defense controls involves a complex, fact-intensive inquiry about the application of broad, equitable principles, only some of which are set out in the statute.

The other common misconception is that the likely probability of a copyright owner, for example, a publisher, undertaking to protect its copyright is very low. In point of fact publisher groups engage investigators who routinely come to campuses and talk with students about their class materials.

Another source of potential infringement litigation is the substantial uncertainty as to the copyright limitations on the uses of protected software programs and of material from electronic data bases.

I. AN OVERVIEW OF COPYRIGHT LAW

A. COPYRIGHT PROTECTION

1. Subject-Matter of Protection

As a branch of intellectual property law, the Copyright Act [17 U.S.C. 101-1010 (1993)] grants protection to works of authorship when fixed in a tangible medium of expression. There are three material limitations (in addition to fair use) on the rights granted the copyright owner that are of particular pertinence:

(1) Copyright protection extends only to expression, which is a metaphor for protectible subject matter, such as, the sequence of words in a book or article as well as the code embedded in the disk of a software program. Expressly excluded from copyright protection are ideas, systems, principles, discoveries, and the like. Thus, when considering duplication of protected material, consideration should be given to the alternative of setting out the ideas or the data in one's own words in lieu of duplicating all or substantial parts of the copyrighted material.

(2) Because copyright protection attaches only to "original works of authorship," courts limit protection when claimed in arrangements of information, or "databases." Discrete bits of factual information, even if "discovered" by a researcher for the first time, are not eligible for copyright protection, but such protection can extend to the selection, coordination or arrangement of such information, if that meets the requirements of originality and minimal creativity.

(3) There is no copyright in the text of material officially promulgated by government agencies. Thus, a teacher is free to copy the official text of court opinions, of statutes and ordinances, and of government rules and regulations. As will be noted below, however, a commercial compiler or publisher may properly claim copyright protection for independently authored notes and other material accompanying such official declarations, as well as (under special circumstances) the sequence and organization of the official declarations themselves.

In addition to the prerequisite of original authorship, the Copyright law until 1989 required published works to bear notice of copyright. The notice states the person to be contacted if it is determined that permission is required. However, for works published after March 1, 1989, the absence of notice does not signify the absence of a claim of copyright. Thus, the absence of copyright notice on a recent work means only that the author or publisher should be contacted to determine whether copyright protection is claimed in that material. It should be assumed that a work may be protected, despite the absence of notice.

2. Rights Protected

When copyright protection attaches, the statute grants five exclusive rights. These rights are: reproduction, distribution, public display, public performance, and the right to make a derivative work. Anyone other than the rightholder exercising any of these rights may be liable for infringement.

For law teaching, the reproduction and derivative work rights are paramount. The latter right materially expands the reproduction right by imposing on a user of protected material the obligation to obtain permission when protected material is transformed, recast, or adapted in such a way as to constitute a new work. For example, it would be a violation of the derivative work right for a law teacher to reproduce substantial parts of a multi-volume treatise in a single volume format for student use, even though the resulting paperback may have many pages of original writing by its preparer.

Copying without permission, or the preparation of a derivative work without permission, may, however, be done if the fair use doctrine controls. This doctrine, to be discussed more fully

below, along with certain Guidelines for classroom photocopying, permits some reproduction, elaboration, display or performance of copyrighted material without liability.

The need for care in the use of copyrighted materials is underscored by the extensive arsenal of copyright remedies including injunctive relief, actual damages, statutory damages of up to \$100,000, attorney's fees, seizure and destruction of infringing copies, as well as of the devices by which copies may be reproduced. Accordingly, it is prudent to consider the controlling statutory and caselaw requirements in advance of the decision to copy.

B. LIMITATIONS ON PROTECTION:

The Fair Use Doctrine and the Educational Copying Guidelines

1. Fair Use

The fair use provision codifies an equitable rule of reason governing the reproduction and distribution of protected materials as an affirmative defense.

The doctrine of fair use as a limitation on the rights granted is grounded in the policy that underlies copyright protection--to encourage (sometimes, by permitting borrowing from earlier works) the creation of works that will enrich society's fund of knowledge and culture -- while protecting authors against an unreasonable, adverse impact on the market for their work [See Appendix A]. The statutory expression of fair use in Section 107 does not set down any clear, quantitative permissions or limits, but rather requires a fact-specific assessment in each case. Not every reproduction, display, or performance of a protected work without permission of the copyright owner is actionable. The fair use doctrine that originated as a judge-made limitation on copyright protection has been characterized as "a privilege in others . . . to use the copyrighted material in a reasonable manner . . . without consent."

The statutory fair use provision, Section 107, has two parts. The first part, sometimes referred to as the preamble, states a number of favored uses that may be found to be fair use, among them teaching (including multiple copies for classroom use), scholarship or research. A second paragraph states four factors to be taken into account in making the determination of a fair use [See Appendix A]. Many courts have interpreted this provision to give substantial weight to the fourth factor, market impact, although the provision itself does not weight the factors.

Accordingly, faculty members would as a general matter be advised to be selective about photocopying and to avoid using more of a protected work than is truly pertinent to a lesson. A recent case in a federal district court held that a commercial copy shop that reproduced, at a professor's request, whole chapters from various copyrighted works -- to create a "coursepack" to be purchased by students (with a profit to the copy shop) -- was not protected by the fair use defense. The court emphasized the for-profit nature of the activity and the adverse impact on the sales of the copyrighted works; although the court did not purport to speak to comparable photocopying practices by a nonprofit educational institution, or the faculty there, the case suggests the need for care in the use of protected materials.

2. Educational Copying Guidelines

During the Congressional hearings that led to the Copyright Act of 1976, the differences between the representatives of the publishers and the representatives of the educational establishment were compromised in a private agreement known as the Educational Guidelines, which are cited in the House Report to the 1976 Copyright Act as available for guidance to courts. [See Appendix B for these Guidelines].

It should be noted that the Guidelines do not have legislative force. The Guidelines were negotiated by private groups at the suggestion of congressional committees. The purpose of urging the representatives of the educational establishment (elementary, secondary, and university) to meet privately was to seek a "reasonable" adjustment of their conflicting interests, as the legislative history to Section 107 states.

The Educational Guidelines in Appendix B should be consulted for the preparation of classroom handouts. The Guidelines are discussed in detail below.

The copyright advisers to the higher education community continue to recognize the role of fair use beyond the minimum "safe harbor" conditions of the Educational Guidelines.

II. COPYRIGHT APPLIED TO LAW SCHOOL PHOTOCOPYING

A. COPYRIGHT STATUS OF WORKS LIKELY TO BE REPRODUCED IN THE LAW SCHOOL CONTEXT

1. PUBLIC DOMAIN MATERIALS [These may be reproduced without permission.]

a. Official United States Government Documents

Documents published by any department of the United States are expressly barred from copyright protection under Section 105 of the Copyright Act. Thus, for example, the Annual Report of the Secretary of the Treasury, Congressional Hearings, and the text of a bill pending in Congress may all be copied without permission. When enacted, the text of a statute may also be copied. Clearly, it can be copied from the official text in the statutes at large of the federal and state governments. The official text may also be copied without permission from a codification whether published by the government or by private law publishers. However, if copied from the latter, care must be taken to avoid substantial copying of any accompanying privately authored matter, such as commentary, annotation, or analysis. Moreover, the compilation and arrangement of statutory text is sometimes copyrighted by private publishers, in which case it would be an infringement of the publisher's compilation copyright to reproduce the full arrangement in the exact sequence.

[The above analysis follows logically from the well-known decision of the Eighth Circuit, West Publishing Co. v. Mead Data Central, Inc., which extended copyright protection to the arrangement of cases in the court reports published by the West Publishing Company, and held that the unauthorized insertion of star pagination in Lexis constituted an illegal reproduction of that arrangement. A number of copyright scholars were critical of that decision when issued and think that its force has been eroded by the Supreme Court in the subsequent decision in the Feist case (which held that there is no copyright protection for the standard alphabetized white page telephone directory, for lack of minimal creativity in selection and arrangement). Lacking any authoritative decision on the scope of copyright in statutory compilations, it is best to make conservative assumptions when copying from privately published statutory compilations.]

b. Judicial Opinions

The literal word order of judicial opinions is in the public domain, outside the scope of copyright protection on the authority of a spate of Supreme Court opinions and Section 105 of the Copyright Act. Accordingly, the text of a state or federal opinion may be reproduced without permission when taken from the official governmental reports, for example, United States Reports or United States Tax Court Reports, or official state court reports. Similarly, the text of the same opinion is outside the scope of copyright protection if it is printed in a volume of the West Publishing Company's National Reporter System. Although there is copyright ownership in this latter volume, the scope of that protection is limited to the arrangement of the cases and to the text of the headnotes, syllabi, and key numbering system.

Law teachers may therefore reproduce the text of a judicial opinion from a volume of the West Reporter System without permission, so long as they excise the syllabus, headnotes, and key numbers. Judicial opinions down-loaded from an electronic database are also within this unprotectible category. However, extensive reproduction of down-loaded material should be made only after reviewing the contract between the law school and the database owner for possible restrictive conditions. This is an occasion for conferring with resident copyright and librarian colleagues.

By contrast, if multiple copies of judicial opinions in full are contemplated being made from the copyrighted National Reporter volume, including the syllabus, headnote, and key number, permission must be obtained. Requests for permission should be directed to the Law Book Division, West Publishing Co., 610 Opperman Drive, Egan, MN 55123; Mead Data Central [Lexis/Nexis] 9443 Springboro Pike, P.O. Box 933, Dayton, Ohio 45401. See also Guidelines of Fair Use [see Appendix A and the discussion of Fair Use, below]. For the addresses of other publishers, see such standard reference as Law Books In Print or enlist the assistance of a librarian colleague.

c. Official Transcripts And Records In Litigated Cases

These are public documents when filed. Classroom use of these materials in connection with the classroom study of that case would be within the fair use defense.

d. State Statutes, Regulations, Ordinances, Municipal Codes

By customary practice, courts have extended the bar against copyright protection for the text of judicial opinions to state and municipal ordinances, codes, and reports. Reproduction of portions of the official text of these materials may be freely made without permission.

If this material is being duplicated from a source that is an official governmental publication, the text is considered to be outside the scope of copyright protection. However, if the text of a statute or of regulations is taken from a commercial source, for example, 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 is required.

2. COPYRIGHTED MATERIALS

a. Textbooks, Casebooks, Treatises, "Nutshells", Commercial Outlines and the like

These should be considered as fully covered by a claim of copyright protection. Permission should always be sought prior to the reproduction and distribution of substantial parts of the above for course materials.

b. Newsletters

Full copyright protection is usually claimed for newsletters. A school may not buy one subscription of a protected newsletter and make multiple copies for distribution to its faculty.

c. Periodicals

Copyright protection applies fully to commercial periodicals. For example, The Journal of Taxation and BNA's Law Week are subject to full copyright protection. However, that protection does not extend to the text of judicial opinions, statutes, and government regulations, as noted above.

Some periodicals published by tax-exempt educational institutions, Yale Law Journal for example, expressly grant the right to copy for classroom use, subject to three conditions as follows: first, copies are distributed at or below cost; second, the author and the journal are identified on the copied material; and third, the named copyright owner is notified of the use. Law school journals subscribing to this convention so indicate by a paragraph headed "copyright" within the first pages of each issue.

Law school periodicals that do not subscribe to this practice may claim full copyright protection. Lawful duplication of matter from these latter periodicals is governed by three factors: 1) applicable copyright principles as set out above; 2) the fair use provision; and 3) the Classroom Guidelines.

If, after a review of the facts and circumstances pertaining to the materials and their proposed reproduction, it is determined that the reproduction and distribution is within the zone of fair use, no permission need be sought.

If it is determined after a review of these three elements of controlling authority that permission is required, the publisher or the author, if she has retained the copyright, should be contacted.

B. EXAMPLES OF LAW SCHOOL COPYING POTENTIALLY SUBJECT TO CHALLENGE BY COPYRIGHT OWNERS

1. Course Packets

The greatest potential for copyright infringement is posed by the preparation of course-specific materials consisting of substantial portions of protected material. Both the reproduction right and the distribution right may be infringed in the process. Moreover, in this case, the fair use defense is effectively foreclosed if the course material is sold at a profit to students as a substitute for commercially available copyrighted materials.

When the use of substantial amounts of protected material is contemplated in the preparation of course packets, permission of the rightholder must be obtained. [See the final section for the procedural information concerning permission requests.]

2. Classroom Handouts

Classroom handouts are to some extent governed by the Educational Guidelines set out in Appendix B. In interpreting the Guidelines, the limitations set out below should be taken into account. First, the Guidelines themselves state expressly that they set **minimum** fair use standards--a safe harbor of uses about which there is neither need for permission, nor an issue of infringement. Thus, uses **beyond** the stated minima may still be fair and non-infringing. Second, as the express terms of the Guidelines suggest, the negotiating background of the Guidelines gives emphasis to the concerns of the elementary and secondary school representatives. Thus, the feasibility and meaning of the Guidelines in large institutions of higher education, including professional schools, are quite speculative, never having been authoritatively tested, although in a recent case involving undergraduate materials, they were cited without being expressly applied.

The Guidelines permit multiple copies to be made for classroom use, subject to three conditions. The first condition involves the requirements of 'brevity' and of 'spontaneity,' both conditions having to be met for each use. For prose matter, an entire article may be copied if it consists of less than 2500 words. If the article is longer than 2500 words, then the multiple copies may be made of an excerpt consisting of the lesser of: 1000 words or 10 percent of the entire article. Spontaneity in this context requires that the decision to make the copies be made by the individual teacher based on the immediate relevance of the material to the subject matter of the class hour(s) in which the copies will be used. Moreover, the time span between the decision to use and the date of use must be so close as to foreclose any reasonable prospect of a timely reply to a request for permission.

The second Guidelines test is that of 'cumulative effect,' an umbrella phrase for a torrent of limitations by number, course, author, work, and source, as explained below.

The numerical limitation is an overall constraint which restricts an individual teacher from making multiple copies on more than nine occasions during any one school term. Then there is the course limitation that restricts multiple classroom copies of an article or a book excerpt (but not of current news periodicals) to only one course in the school curriculum.

In addition, there is both an author and a source limitation. Thus, during any one term not more than one entire article or chapter may be copied from the same author. If, however, an excerpt is copied, then no more than two excerpts may be made from the same author during that term. In addition, there is also a limitation as to the protected material itself. This restricts the multiple copying during any one school term of more than three excerpts from any one volume of a periodical or of a collective work. (Again, it is more likely that these restrictions were intended for elementary and secondary, rather than professional school, education; moreover, these negative mandates do not comport with the purpose of the Guidelines as statements of the minimum that fair use allows.)

An added requirement is that each copy made under the Guidelines must display the notice of copyright, if any, relating to the copied work.

The Guidelines also contain, in addition to the prohibitions noted above, the general prohibition that copying must not produce a substitute work to supplant an existing protected book, pamphlet, or periodical.

Given the overlapping configuration of these limitations and prohibitions, coupled with the paucity of judicial interpretation, the resident copyright colleagues should be consulted in cases of classroom copying in which interpretation of the Guidelines is required. In applying the Guidelines, it should be noted that they do not purport to **ban** anything. They undertake to state a minimum, "safe harbor" of classroom uses. Fair use begins where the Guidelines end.

The following uses are set out as examples of the application of Section 107 and the Guidelines. Under the constraints stated above, incorporation without permission of substantial portions of a periodical article into another person's casebook manuscript would constitute an actionable invasion of the author's right to transform or recast his work--the derivative work right granted by the statute to authors.

If the multiple copies are distributed to the class at a charge, that price per copy should also be reviewed. The Guidelines do not permit a charge exceeding the cost of the photocopying. That figure would include the cost of the paper, plus a reasonable charge for the time of the person running the machine, electricity, and amortization of the machine.

For use of materials obtained from Lexis, Westlaw, and other electronic data bases, it is necessary to consult the underlying license arrangement between the data base owner and the school.

3. Research And Scholarship

The Educational Guidelines provide that a single copy of an entire periodical article or of a chapter in a book may be made by or for a teacher for that teacher's own files in an area of scholarly interest. It is generally accepted by the copyright bar and by commentators as a fair use and considered not to be actionable. In a recent Second Circuit decision involving single-article photocopying by a chemist employed by the Texaco Corporation, the court found such copying not to be a fair use. Although the lower court had placed considerable weight on Texaco's profit-making status, the court of appeals was not as emphatic on that score, leaving some uncertainty about the application of the court's analysis to a faculty member in a nonprofit university.

Thus, prudence suggests limitations. For example, a tax teacher who copied a current, single volume treatise on corporate taxation under this doctrine might be considered by a substantial portion of the copyright bar to be an infringer. Such copying effectively substitutes for the purchase of the treatise, and adversely and directly affects the author's and publisher's remuneration -- particularly when the treatise is readily available for purchase. It may therefore be that this exception for scholarly use is limited to materials not otherwise readily available in that form, for example, a complete article from a bound volume of a law review of which there are no commercial (or author's) reprints.

Moreover, this privilege is limited to a single copy for personal use. It does not extend to further reproduction or distribution.

III. OBTAINING PERMISSION

If, after a review of the circumstances of the proposed reproduction of copyrighted material, it is determined that permission from the copyright owner is to be sought, there are three basic ways to do so.

First, one may make direct contact with the rights-holder. Sometimes this will be the author of the article; but sometimes the law journal takes an assignment of copyright from that person, so that it is technically the journal that has the power to authorize copying. (Even in the latter cases, however, the journal will often leave it to the author to approve any requested copying for classroom or scholarly use.) A user seeking permission would thus be well advised simply to locate another law teacher in the AALS Directory and to use the telephone.

Second, if the user's school or university has a permissions center, the request may be made through that office.

Finally, there are the central licensing organizations, such as the Copyright Clearance Center. The Copyright Clearance Center administers licenses, including the collection of royalties, for some eight thousand publishers of books, periodicals, and newsletters. The Center's licenses are of two modes. One is a Transaction Reporting Service, which is an arrangement for duplication in which records are kept and royalties transmitted according to use. The second mode of licensing is a blanket annual license. 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 the largest

and is located at 222 Rosewood Drive, Danvers, MA 01923. The telephone number is (508) 750-8400; FAX: (508) 750-4410.

[The committee that prepared this statement is engaged in negotiations with the Copyright Clearance Center for the preparation of a blanket license tailored to law school uses.]

GENERAL RECOMMENDATION

The substantial copyright remedies, coupled with the embarrassment of a law teacher being a named party defendant in an infringement action, suggest some organizational arrangements to minimize the prospect. The dean might designate some person(s) in the administrative suite to brief the staffers and faculty who prepare classroom materials about the need to be concerned with assuring that proper copyright precautions have been taken in each case, for example, that the material to be copied has been reviewed to determine its eligibility to be copied, and that permission has been obtained if needed.

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APPENDIX A

17 U.S.C. §107 Limitations on exclusive rights: Fair Use

Notwithstanding the provision of sections 106 and 106A,* 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.

[* Section 106 grants the rightholder the right to reproduce, prepare derivative works, to distribute, and where relevant, the right to perform and to display. Section 106A applies only to works of visual art, granting rights of attribution and of integrity--Ed.]

APPENDIX B

AGREEMENT ON GUIDELINES FOR CLASSROOM COPYING IN NOT-FOR-PROFIT EDUCATIONAL INSTITUTIONS

With Respect to Books and Periodicals*

The purpose of the following guidelines is to state the minimum standards of education fair use under Section 107 of H.R. 2223. The parties agree that the conditions determining the extent of permissible copying for educational purposes may change in the future; that certain types of copying permitted under these guidelines may not be permissible in the future; and conversely that in the future other types of copying not permitted under these guidelines may be permissible under revised guidelines.

Moreover, 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.

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;
- 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 test 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

* These guidelines were developed by three organizations: the Ad Hoc Committee of Educational Institutions and Organizations on Copyright Law Revision; the Authors League of America, Inc.; and the Association of American Publishers, Inc.

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 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.

(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.