

**Viterbo University  
Todd Wehr Memorial Library**

**Guidelines for Classroom Use of Copyrighted Materials**

***Basic Assumptions***

- All items are legally made and acquired.
- All items are linked/posted on a password-protected Blackboard site for ONLY members of the class.
- All items are being used as part of a systematic mediated instructional activity under the direction of an instructor.
- Items are copyrighted; copyright is automatic; when in doubt, assume it is copyrighted.

***Assessing Materials for your Class***

Guideline #1: Always assess if use of class materials falls under Fair Use or Classroom Use guidelines. If it does not, it is wise to seek permission of the copyright holder.

Guideline #2: Linking to digital materials is always better than reposting, since you are more accurately crediting the original source.

Guideline #3: The library subscribes to many multimedia and electronic sources that you can link to for your course. Be sure to contact the library before licensing/purchasing additional content.

***Item Types used in traditional “face to face” classes.***

Video, Audio, and Image– Copyright law allows “the performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution.” (17 U.S.C. § 110(1)). The entirety of any video work may be shown in the face-to-face classroom. Works owned by Viterbo may be streamed to the classroom or a learning lab, but not necessarily made available for evaluation for student homework.

Article or Book Chapter – If you have not used an item for this class in a previous semester, you may use the item. If you link to an existing electronic item in the library’s collection, you can usually use them for multiple semesters. Check with the library to verify if you can link to specific content.

***Copyright guidelines for online courses***

Online courses and hybrid classes that have 50% or more of content presented in an online format must follow the guidelines below for online courses.

## ***Item Types***

*Video* - Only a limited portion of any video may be used in an online class. You may not show an entire film, documentary, or other video work without seeking permission from the copyright holder or articulating why the entire use is warranted.

*Audio* – Only a limited portion of any dramatic work may be used in an online class. A dramatic work is a recording of an opera, theatre performance, or musical. You may use an entire non-dramatic work in your online class. A non-dramatic work includes music, news, concerts, speeches, etc.

*Image* – If you are using the same number of images (*i.e.*, creative works such as artistic images, photos, or creative representations of information) or fewer in your online class than you would use in a face-to-face class, you may use the images in your course.

*Article or Book Chapter* – If you have not used an item for this class in a previous semester, you may use the item. If you link to an existing electronic item in the library’s collection, you can usually use it for multiple semesters. Check with the library to verify if you can link to specific content.

## **Permissible Classroom Copying Guidelines**

The Library supports the Copyright Revision Act, Title 17 of the United States Code, from which the Guidelines for Classroom Copying in Not-for-Profit Educational Institutions is derived. The Guidelines are as follows:

*Multiple Copies for Classroom Use:* Multiple copies (not to exceed in any event more than one copy per student in a course) may be made by or for the faculty giving the course for classroom use or discussion, provided that:

- A. The copying meets the following 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.
- 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.

#### Prohibitions

Notwithstanding any of the above, the following shall be prohibited:

- A. Copying may not be used to create or to replace or to substitute for anthologies, compilations or collective works. A prohibited replacement or substitution occurs regardless of whether copies of various works or excerpts there from are accumulated or are 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:
  1. substitute for the purchase of books, publisher’s reprints or periodicals;
  2. be directed by higher authority; or
  3. be repeated with respect to the same item by the same teacher from term to term.
- D. No charge may be made to the student beyond the actual cost of the photocopying.

**Fair Use Test** (Modified from <http://www.umuc.edu/library/copy.shtml>)

The purpose and character of the use:

- Is the new work merely a copy of the original? If it is simply a copy, it is not as likely to be considered fair use.
- Does the new work offer something above and beyond the original? Does it transform the original work in some way? If the work is altered significantly, used for another purpose, appeals to a different audience, it is more likely to be considered fair use.
- Is the use of the copyrighted work for nonprofit or educational purposes? The use of copyrighted works for nonprofit or educational purposes is more likely to be considered fair use.

The nature of the copyrighted work:

- Is the copyrighted work a published or unpublished work? Unpublished works are less likely to be considered fair use.
- Is the copyrighted work out of print? If it is, it is more likely to be considered fair use, (but check to make sure this assumption is correct.)
- Is the work factual or artistic? The more a work tends toward artistic expression, the less likely it will be considered fair use.

The amount and substantiality of the portion used:

- The more you use, the less likely it will be considered fair use.
- Does the amount you use exceed a reasonable expectation? If it approaches 50% of the entire work, it is likely to be considered an unfair use of the copyrighted work.
- Is the particular portion used likely to adversely affect the author's economic gain? If you use the "heart" or "essence" of a work, it is less likely your use will be considered fair.

The effect of use on the potential market for the copyrighted work:

- The more the new work differs from the original, the less likely it will be considered an infringement.
- Does the work appeal to the same audience as the original? If the answer is yes, it will likely be considered an infringement.
- Does the new work contain anything original? If it does, it is more likely the use of the copyrighted material will be seen as fair use.