

### **Definition of Fair Use**

Section 107 of the 1976 Copyright Act grants the “fair use” of copyrighted materials for a variety of purposes, for the creation of new works, for educational use, and for personal use. The principles of fair use are founded on the ability to enable teachers and scholars to use copyrighted materials for teaching, scholarship, and research with respect for the rights of copyright holders as well as their own rights.

### **Nature of Fair Use**

This statute provides that “the fair use of a copyrighted work, including such use by reproduction in copies,” is not an infringement of copyright. The purpose of fair use is twofold: to protect the copyright holder’s market monopoly while preventing the market monopoly from being used to inhibit (rather than promote) learning. An individual who copies a work to put it on the market uses the copyright, because the copyright holder has the right to market the work. Without permission, such a use is an infringement on copyright. However, an individual who copies from a work for teaching purposes uses the work, not the copyright, because the use is a use for which the work was intended. Such a use is a fair use, not an infringement.

### **The amount and substantiality of the portion used in relation to the copyrighted work as a whole – How much is too much?**

If the entire work of a book or an entire volume of a journal (rather than the article itself) is reproduced, a claim cannot be made for Fair Use. A request for copyright permission must be obtained before scanning can be done (see attached form). The amount used in relation to the work as a whole is a major factor in determining whether the use is merely a use of the work or a use of the copyright; the greater the amount used, the more likely the use will be a use of the copyright.

### **Following the MSUM policy ( MSU,M Campus Policies, Procedures, and Services) administrative assistants and student workers will scan according to the following guidelines:**

Single copying - for or by a teacher for his/her research or use in teaching or preparing for class may copy:

1. One chapter from a book, or pages within the book equal to the length of a chapter of said book.
2. One article from a selected journal.
3. One graph, chart, diagram, drawing, cartoon or picture from a newspaper, book or periodical.

Scanning of more than one chapter or an entire textbook with the presentation of a copyright approval form

Foster, A. (2008) In lawsuit, university asserts that downloading copyrighted material is fair use, The Chronicle of Higher Education

<http://www.mnsu.edu/univops/handbook/general.html>

Board of Regents, University of Georgia, Office of Legal Affairs: Regents Guide to Understanding Copyright and Educational Fair use <http://www.usg.edu/legal/copyright/>