

MCU EDCOM STAFF REGS

CHAPTER 4

VICE PRESIDENT FOR INSTRUCTIONAL AND RESEARCH SUPPORT  
(VPIRS)/DIRECTOR, GRAY RESEARCH CENTER (GRC)

SECTION 5: USE OF COPYRIGHTED MATERIALS WITHIN MCU

4501. REFERENCES

1. Circular 21: Reproduction of Copyrighted Works by Educators and Librarians. U.S. Copyright Office, June 1998
2. 17 U.S.C. 110
3. SECNAVINST 5870.4A (16 August 2005)
4. Circular 92: Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code. U.S. Copyright Office, June 2003
5. Circular 38a: International Copyright Relations of the United States. U.S. Copyright Office, August 2003
6. MCU Staff Regulation, Chapter 2, Section 7.

4502. BACKGROUND AND SCOPE

1. This section establishes binding requirements, guidelines, and procedures, based on the references in paragraphs 4501.1, 4501.2, 4501.3, 4501.4, and 4501.5 that govern the use of copyrighted materials within MCU.
2. This section only addresses the use of copyrighted materials within MCU. It does not address intellectual property issues associated with publication by MCU faculty, staff, or students; these issues are addressed in the reference identified in paragraphs 4501.1 and 4501.6.
3. Applicability
  - a. All aspects of this chapter are applicable to all MCU schools.
  - b. The copyright compliance information and permissible use guidelines presented in this section are applicable to

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all MCU administrative offices, however as those offices do not normally reproduce or use copyrighted materials, they are not required to establish formal copyright compliance programs nor appoint Copyright Control Managers.

c. This section has limited applicability to the National Museum of the Marine Corps (NMMC) and the Library of the Marine Corps because of those activities' special circumstances and unique requirements.

4. Requirements and procedures of this section became effective on 1 January 2007.

### 4503. RESPONSIBILITIES AND DUTIES

#### 1. The VPIRS shall

a. Establish and maintain requirements, guidelines, and procedures governing the use of copyrighted materials for MCU.

b. Provide oversight of and guidance to the Director, Library of the Marine Corps, with regard to copyright policies, procedures, and issues.

c. Assist in the assessment of school copyright compliance programs when requested by school directors or directed by the MCU President.

d. Obtain legal advice, as needed, in determining whether an unlicensed use of a copyrighted work is legally permissible.

#### 2. The Director, Library of the Marine Corps shall

a. Provide oversight to ensure all MCU schools establish copyright compliance programs in support of this section.

b. Maintain current copies of the separate, specific copyright compliance Standing Operating Procedures (SOP) established by the NMMC and the Library of the Marine Corps.

c. Maintain a current copy of the Copyright Control Manager appointment for each MCU school.

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d. Maintain annual statements of compliance provided by Directors of the MCU schools, the NMMC, and the Library of the Marine Corps.

e. Upon request, identify initial or refresher training opportunities for school Copyright Control Managers.

f. Provide advice and guidance to school Copyright Control Managers when they are unable to determine whether or not reproduction, display, or other use of a document or other work would fall within permissible use guidelines.

g. Provide supervision and guidance to the MCU Copyright Clerk to include management of the annual Copyright Control Center Academic Use License and, if established, a FEDLINK Copyright Control Center account.

h. Ensure the Library of the Marine Corps adequately supports any initiatives by school directors or the VP-AA that focus on methods the faculty may use to reduce their dependency on curriculum delivery via course pack.

2. Other MCU Vice-Presidents; the Director of the School of MAGTF Logistics, the Director of Enlisted Professional Military Education, the Director of Professional Development, the Director of the History Division, and supervisors of administrative offices

a. Shall ensure the permissible use guidelines presented in this section are followed within their organizations.

b. Are not required to establish copyright compliance programs nor appoint Copyright Control Managers.

3. The Directors of NMMC and the Library of the Marine Corps shall

a. Establish, publish, and enforce separate internal SOPs that meet their specific needs and conform with all laws, regulations, agreements, and other requirements of the references identified in paragraph 4501.

b. Ensure current copies of these internal SOPs are provided to the Director, Library of the Marine Corps.

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c. Ensure annual internal assessments of their organizations' compliance with their self-established copyright control SOPs are conducted and that subsequent annual statements documenting these reviews and compliance are forwarded to the VP-IRS.

4. The Directors of the Marine Corps War College (MCWAR), the School of Advanced Warfare (SAW), the Command and Staff College (CSC), and the Expeditionary Warfare School (EWS) shall

a. Establish and enforce an effective copyright compliance program within their school that is in conformance with this section.

b. Appoint, in writing, a single Copyright Control Manager for their school. If a School Director does not appoint a Copyright Control Manager, the School Director shall retain personal responsibility for managing the school copyright compliance program. A sample appointment letter is at Figure 4-9.

c. Ensure a current copy of their school's Copyright Control Manager appointment is provided to the Director of the Library of the Marine Corps.

d. Ensure annual internal assessments of their schools' compliance with this section are conducted and that subsequent statements documenting these annual reviews and compliance are forwarded to the Director of the Library of the Marine Corps.

e. Ensure their school's Copyright Control Manager provides adequate training regarding the use of copyrighted materials to their school's faculty on an annual basis.

f. Ensure adequate funding is provided to obtain any required copyright compliance permissions not covered by the annual MCU Copyright Control Center Academic License.

g. Ensure internal procedures are established to purchase those copyright permissions not covered by the annual MCU Copyright Control Center Academic License using a Government-wide Commercial Purchase Card (GCPC) or formal Purchase Requests submitted to the Regional Contracting

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Office (RCO), or FEDLINK account via the Library of the Marine Corps

### 5. Each school's Copyright Control Manager will

a. Manage their school's copyright control program.

b. Maintain records and files necessary to document compliance with this chapter. These records should include copies of course-packs, handouts, DVDs, CDs, and permissions of use. These records and files will be maintained for a period of three years—the period of time in which a copyright owner must initiate a copyright infringement claim.

c. Include one statement on the first page of each school-produced or copied publication (to include course-packs, DVDs, CDs, or similar items) that specifically states, the Copyright Control Manager's signature, name, school, and date.

This includes materials used in electives and instruction provided by adjunct, part-time, endowed, and volunteer instructors; it does not include materials distributed by guest lecturers. It is not necessary to include this statement on spontaneous, brief, one-time handouts that are copied and distributed by instructors themselves.

d. Include one statement on the first page of the school website that specifically states, "I have reviewed all copyright protected material posted on the (School Name) website and its use is in conformance with MCU Staff Regulation, Chapter 4 Section 5, Use of Copyrighted Materials Within MCU." The statement must include the Copyright Control Manager's name, school, and date.

6. Each MCU supervisor shall establish and enforce procedures to help ensure that no improper reproduction of course packs, course handouts, DVDs, CDs, or other similar materials is allowed to occur on copiers, computers, or other reproduction equipment under their control.

7. Each individual faculty member, staff member, and student shall comply with this section and any specific procedures established by their school or office.

### 4504. USE OF COPYRIGHTED MATERIALS

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1. Generally, a work of authorship has copyright protection from the moment it is fixed (i.e., recorded) on some type of media to include paper, audio/visual tape, film, or digital storage material/system. It is immaterial as to whether the work has been published, registered, or includes a copyright notice.

2. Protected Works. Unless they fall within the public domain, all creative works are afforded copyright protection. Creative works include—but are not limited to—literary works, musical works (and any accompanying words), dramatic works (and any accompanying music), pantomimes, choreographic works, pictorial works, graphic works, sculptural works, motion pictures, audiovisual works, sound recordings, architectural works, and works of research.

3. First Sale Doctrine. The ownership of a physical item (e.g., a book, journal, CD, or DVD) allows the owner to lend, resell, or dispose of that item. Ownership of a physical item does not include any entitlement or authorization to reproduce the item, display the item in a public setting, perform the item, or engage in any act reserved for a copyright holder. Those actions all require formal permission from a copyright holder or a copyright licensing agent. An owner's mere inclusion of an attribution to the copyright holder during the use of the item does not constitute formal permission.

4. Public Domain and Unrestricted Copying. Creative works that fall within the public domain are not protected by copyright and may be used and reproduced by anyone without limitation. There are three reasons that works may be unprotected: (1) the copyright term has expired; (2) the author failed to satisfy legal aspects of the copyright statute; or (3) the work belongs to the U.S. Government. The following works are not protected by copyright law:

a. Published Works with Expired Copyrights. Works with expired copyrights are not protected. The duration of a copyright extends from the moment the work is fixed and endures for the term of the author's life plus an additional 70 years after the author's death. For works made for hire and for anonymous and pseudonymous works, the duration of copyright is for 95 years from publication or 120 years from creation, whichever is shorter.

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b. Some Works Without a Copyright Notice. Works published before January 1, 1978, which do not include a copyright notice, are not protected.

c. Some Federal Government Publications. Works produced by federal government employees are not protected if they are related to their capacity as federal government employees. This does not mean, however, that any federal publication may be freely copied as the publication may contain copyrighted material produced by others.

d. Some State Government Publications. Official state government documents—specifically statutes, regulations, and court opinions—are usually considered to be not protected.

e. Publications Specifically Waiving Protection. Some publications have waived copyright restrictions for photocopies or digital reproductions made for research, educational, or scholarly purposes. If such a waiver exists, it is usually noted on the title page or with the copyright notice. It may also be listed at CreativeCommons.org.

5. Copying Permitted as Fair Use. The copying of protected materials without first securing permission may in some circumstances be allowed under the doctrine of fair use. This doctrine is based on 17 USC 107 and applies to copying for such purposes as criticism, comment, teaching, scholarship, or research. Fair use copying only applies to U.S. publications. The fair use exception does not give educators a blanket exemption from copyright law. Educators, like everyone else, must keep their uses of others' works within certain bounds. As noted by the Copyright Control Center, fair use specifically applies to "the use of excerpts for illustration or comment, the unexpected and spontaneous reproduction of classroom materials, and the creation of parodies." Copyright statutes offer general guidance with regard to "fair use" and require the consideration of four factors when determining if a specific proposed use would be fair.

a. The Purpose and Character of the Use. Having a nonprofit, educational use generally satisfies this criterion, especially if some commentary or criticism is included along with the protected material. However, regardless of nonprofit or educational status, use is not considered to be "fair use" when copied materials are used

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repeatedly in successive academic terms or in multiple classes/seminars within the same term.

b. Nature of the Copyrighted Work. The copying of factual materials may be more likely to be protected as fair use than the copying of nonfactual works.

c. The Amount and Substantiality of the Portion Used. The amount of materials used should be selective and sparing. For example, the copying of a complete poem or short story, an entire chapter of a book, or an entire article from a periodical may require permission. Also, the copying of the qualitatively most significant portion or portions of a work is not likely to qualify as fair use, even if quantitatively small.

d. Effect of the Use on Potential Markets for or Value of the Copyrighted Work. The effect of the copying should not be unreasonably detrimental to the market for the work. For example, portions of consumable works such as workbooks and standardized tests usually may not be copied without permission. Courts have also frowned upon the creation of multiple copies of protected materials for use as academic readings if they are used as an integral component of a course.

### 6. Permissible Educational Use. 17 U.S.C. 110

a. Allows the performance or display of certain works for educational purposes under specific, defined circumstances.

b. Provides rights independent of those granted under the fair use doctrine.

c. Only addresses the instructional use of copyrighted works and does not authorize the display or performance of works for recreation or entertainment, even in a classroom setting.

### 4505. MCU PERMISSIBLE USE GUIDELINES

1. "Permissible use" copying by MCU faculty and staff members is based upon the "Agreement on 'Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals'" contained in Circular

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21: Reproduction of Copyrighted Works by Educators and Librarians. U.S. Copyright Office, June 1998 (see paragraph 4511) and 17 U.S.C. 110. At MCU "permissible use" is defined by the following guidelines.

2. Course packs and Systematic Copying. A course pack is a collection of articles, book excerpts, maps, illustrations, and/or other material collected by an instructor or academic organization and distributed—in hard-copy or digital format—to students for required or supplemental reading. There is no such thing as the fair use or permissible use production of course packs. Reference (b) does not apply to the production of course packs.

a. Circular 21 specifically states that copyright law "does not authorize the systematic reproduction or distribution of copies . . . of articles or other contributions to copyrighted collections or periodicals or of small parts of other copyright works whether or not multiple copies are reproduced or distributed." It further explains that "the systematic reproduction of copyright protected materials for classroom use cannot be delegated to others, as copyright law does not authorize the related or concerted reproduction of multiple copies of the same material whether made on one occasion or over a period of time, and whether intended for aggregate use by one individual or for separate use by the individual members of a group. For example, if a college professor instructs his class to read an article from a copyrighted journal, the school library would not be permitted . . . to reproduce copies for members of the class."

b. Sections III (A) and (C) of the "Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals" (see paragraph 4511) contained in Circular 21 specifically prohibits the type of copying required to produce course-packs unless prior permission is received from the copyright owner.

c. Case law (Basic Books vs. Kinko's Graphics - 1991, Princeton University Press vs. Michigan Document Services - 1996) and a more recent out-of-court settlement (University of Chicago Press, vs. BISI, Inc. - 2004) have firmly established that reproducing materials for any academic digital or hardcopy course pack requires prior copyright owner permission.

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d. All course packs, including digital course packs, must include any copyright notices from all original publications and must include appropriate citations of and attributions to the sources.

3. Handouts. A handout is any single document that is distributed to students as part of the curriculum.

a. At MCU, permissible use guidelines for the copying of materials for handouts without first obtaining permission are based on Circular 21 to include provisions found in Section II of the "Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals."

b. 17 U.S.C. 110 does not apply to the reproduction of materials for handouts or to the distribution of handouts. The reproduction of materials in multiple copies for use as handouts at MCU without prior permission from copyright holders is permitted only if all of the following conditions are met:

(1) The handout is used one-time only in only one course during the academic year, no more than one copy is made per student in the course, and the handout may not be used without permission in any course within the school in subsequent academic years.

(2) The decision to use the material in a handout by an instructor is spontaneous and, as noted in reference (a), tied to a specific, time-sensitive "teaching moment." Section II of the "Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals" states that to meet this requirement, "the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness [must be] so close in time that it would be unreasonable to expect a timely reply to a request for permission."

(3) The portion of the entire work that is reproduced meets the following requirements for brevity:

(a) For prose: If an entire stand-alone work is less than 2,500 words, it may be reproduced in its entirety. In other cases, an excerpt of up to 1000 words or 10% of the

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total work, whichever is less, but in any event a minimum of 500 words, may be reproduced.

(b) For poetry: A complete poem if less than 250 words and printed on less than two pages, may be reproduced. An excerpt of a longer poem, where the excerpt is not more than 250 words, may be reproduced.

(4) For "Special Works:" "Special works" are certain works of poetry, prose, or poetic prose that often combine language with illustrations. Special works may be intended for a younger audience or a more general audience and fall short of 2,500 words. Only an excerpt comprising not more than two of the published pages of the special work and containing not more than 10% of the words found in the text may be reproduced.

(5) One-time illustrative handouts (to include photographs, maps, diagrams, graphs, drawings, cartoons, or other images) reproduced from any single book, monograph, anthology, collection, journal or other single source are limited to no more than one item. However, care must be taken when reproducing any illustrative material—such as a single photograph or map—because this material may be protected in its own right as a stand-alone work.

(6) There are no more than nine instances of such multiple copying for one class during one class term.

4. Motion Pictures and Visually-Recorded Performances in a Residential Classroom. The playing of a motion picture or other recorded performance in a residential classroom setting by an instructor or student, as part of a face-to-face (i.e., students and instructor are simultaneously in the same general place) teaching activity, is permissible under 17 U.S.C. 110 provided the tape, film, DVD, or other medium used is a legally produced copy owned by the government, owned by the course director, or owned by another member of the class. Use of non-federal government-owned borrowed copies (e.g., copies borrowed from a local public library or rented from commercial source) is not permitted under 17 U.S.C. 110 and is not fair or permissible use.

5. Music Recordings in a Residential Classroom. The playing of a sound recording by an instructor or student in a residential classroom, as part of a face-to-face (i.e.,

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students and instructor are simultaneously in the same general place) teaching activity, is permissible under 17 U.S.C. 110. Although playing of an unlawfully made copy of a sound recording in a residential classroom, as part of a face-to-face teaching activity, will not infringe a copyright, unlawfully copying the sound recording, or having another person unlawfully copy the sound recording, constitutes patent infringement.

6. Motion pictures, visually-recorded performances, and music recordings that are transmitted or made available on-line.

a. In order to transmit or post a motion picture, music, or other recorded performance on-line, any and all licensing and use requirements specified on the medium or in the materials that came with the medium must be followed.

b. If no licensing or use requirements are specified, the material may be used sparingly and only if the medium is a legally produced copy owned by the government, owned by the course director, or owned by another member of the class.

c. Any transmission or on-line posting of the material must include any copyright information from the original medium and must include appropriate citations and attributions to the source.

d. Access to the transmission or on-line posting must be limited only to students enrolled in the course and faculty or staff members that specifically require access to the material in order to ensure the success of the course. All access to the materials must be stopped at the end of the course.

e. If a need arises to make an unlicensed transmission of a copyrighted non-dramatic literary or musical work under circumstances outside the scope of 6505-6a through 6505-6d above, consult with VP-IRS to determine whether 17 U.S.C. 110 permits the unlicensed transmission.

7. Image Use and Digitization. Users must consider any images not created by them to be copyright protected unless the images are specifically identified as being within the public domain.

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a. The display of an image in a residential classroom by an instructor or student, as part of a face-to-face teaching activity (i.e., students and instructor are simultaneously in the same general place), is permissible under reference (b), provided the displayed copy was lawfully made. This paragraph, however, does not permit the display of images taken from non-federal government-owned borrowed copies (e.g., copies borrowed from a local public library or rented from a commercial source) of motion pictures.

b. If a copyright-protected image is available for purchase or licensing, any use without purchase or payment of a license fee, other than that described in paragraph 4505.7a, is not permissible.

c. Except in the case of paragraph 4505.7a, if a copyright protected image is not available for purchase or licensing, only small, low-resolution thumbnails may be used in presentations. Students and other audience members may be provided with on-line links to where they may view larger high-resolution images. The on-line links should open a new window displaying the entire page of the linked website containing the high resolution image. Unless the copyright owner has granted permission, framing is not permissible use. Availability of such images must be reviewed annually to determine if they have become obtainable by purchase or license.

d. If an image known to be in the public domain is used, credit as to its source must accompany the image.

e. Students may download, transmit, and print images for personal study and for inclusion in work assignments.

8. Use of Others' Works in Multimedia Materials. The copying (digital or hardcopy), transmission, or distribution of a multimedia lecture or project including the work of others is not permissible unless, in the case of a transmission, the VP-IRS has reviewed the proposed transmission in advance, obtained the opinion of counsel, and believes 17 U.S.C. 110 permits the proposed transmission.

### 9. Repetitive Copying and/or Use

a. Any repetitive reproduction or use of the same textual material—regardless of quantitative size or qualitative importance—within the same school for two or more

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similar or different classes, courses, or seminars within the same academic year does not meet the spontaneity requirement identified in the "Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals" and is not fair use.

b. Repetitive display or performance of music, motion pictures, or images is permissible if the conditions set forth in the other sections of paragraph 4505 are met. Other repetitive use of a copyrighted music, motion pictures, or images requires permission from the copyright owner.

10. Single Copying for Research, Use in Teaching, or Preparation to Teach a Class. A single copy may be made of any of the following by or for an instructor or student at his or her individual request for his or her scholarly research, or for use in teaching or preparing 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; or
- d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

11. Exceptions. Reference (a) notes that, on occasion, copying of material may fall within fair use provided it meets the four factors identified in paragraph 4504.5 even if it falls outside of these guidelines. Under those circumstances, approval of VP-IRS (via the Director of the Library of the Marine Corps) must be sought before copying.

### 4506. OBTAINING PERMISSION TO COPY

1. In accordance with SECNAVINST 5870.4A, permission must be obtained prior to copying or using any materials that do not fall within the permissible use guidelines specified in this chapter.

2. Support from the Library of the Marine Corps Copyright Clerk. MCU has established a Copyright Clerk position working within the Library of the Marine Corps.

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a. The Copyright Clerk can obtain copyright permissions for MCU requests that are covered by the annual MCU Copyright Clearance Center Annual Academic License.

b. For MCU copyright permission requests, the Copyright clerk can coordinate permission requests and prepare necessary documentation, but the finalization and purchase of those permissions must be done by the school or organization of the requestor. Schools, colleges, and other offices are not required to use the services provided by the Copyright Clerk; they may elect to obtain their own copyright use permissions.

c. Centralized Copyright Clearance Center Contract. The Copyright Clerk will coordinate the use of the annual MCU Copyright Clearance Center Annual Academic License.

d. Copyright Clerk Procedures. Copyright Control Managers from those schools who elect to use the Copyright Clerk must establish working relationships with the Copyright Clerk that are most effective for their particular school's needs.

(1) Upon receipt of a copyright permission request, the Copyright Clerk will coordinate with the Copyright Control Center to determine if the permission is covered under the annual MCU Copyright Clearance Center Annual Academic License. If so, the Copyright Clerk will take all actions necessary to obtain permission. The Copyright Clerk will provide a copy of the approved permission to the requestor and will maintain a copy in the office files. These records are to be used by schools to document their permission to use copyrighted materials.

(2) If the permission request is not able to be obtained through the annual MCU Copyright Clearance Center Annual Academic License, the Copyright Clerk will obtain tentative use permission pending payment by the requestor. The Copyright Clerk will prepare a draft copyright permission purchase request or other appropriate document with all pertinent non-fiscal information and provide it to the requestor. The Copyright Clerk will maintain copies of any documents provided to the requestor in the office files. The requestor must then process the permission request through her/his school or section's normal acquisition channels. The school or section may not reproduce the copyrighted materials until the request is processed and payment finalized by its

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acquisition personnel. The acquisition records are to be used by schools and sections to document their permission to use copyrighted materials and to manage the execution of their budgets.

(3) When unable to obtain final or tentative copyright permission approval, the Copyright Clerk will maintain a record of all research, failures to locate, refusals, and other pertinent information in the office files and provide a copy of the same to the requestor.

### 4507. DOCUMENTING PERMISSION TO COPY

1. Acknowledging Copyright. Copyright Control Managers must ensure that each use of a copyrighted item includes a credit line as follows: "From: (Author's Name). (Title). Published by (Name of Publisher, Year, Page Numbers)." In the case of a copyrighted item used by permission, the credit line must comply with any requirements for credit lines set forth in the permission. Where possible, the credit line will comply with the permission and this paragraph. In the event of a conflict between the requirements of the permission and the form recommended in this paragraph, the requirements of the permission shall control.

2. Permission Documentation. Copyright Control Managers must maintain a record of all permissions received. Additionally, Copyright Control Managers must maintain hard-copy-to include printed email messages-permission evidence from copyright owners or the Copyright Clearance Center or similar copyright management agency. (Locally produced memorandums of record or other self-generated notes are not sufficient to document permissions.) These records and files will be maintained for a period of three years (the period of time in which a copyright owner may initiate a copyright infringement claim).

### 4508. COPYRIGHT INFRINGEMENT

1. As a general rule, copying, modifying, displaying, performing, or distributing a protected work is considered to be copyright infringement unless prior permission from the copyright owner has been obtained. Copyright owners must initiate infringement claims within three years of any alleged infringement. The penalties for copyright instances, actual damages may be far greater than statutory damages.

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2. Qualified Immunity and Liabilities. There is a special provision within the law that allows a court to refuse to award statutory damages even if copyright infringement has occurred. This provision is known as the "good faith fair use defense" and is based on 17 USC 504(c)(2). This defense only applies if a person who used or copied protected material reasonably believed that what he or she did constituted fair use. The "good faith fair use defense" would probably not apply if someone, who is subject to this staff regulation, did not follow its provisions and limitations. It is possible that individuals without the ability to assert qualified immunity could be personally sued for injunctive relief and monetary damages. Additionally, the federal government may refuse to provide legal counsel to an individual personally sued for injunctive relief or monetary damages if the alleged copyright infringement occurred because that individual ignored or recklessly disregarded MCU requirements, guidelines, and procedures on the use of copyrighted material.

3. Adverse Actions. Civilian employees of MCU who do not follow the provisions of this chapter may be subject to adverse administrative actions in accordance with MCCDCO 12750.1, Disciplinary and Adverse Actions toward Civil Service Employees. Military personnel assigned to MCU who do not follow the provisions of this chapter may be subject to non-judicial or judicial actions in accordance with Service regulations and/or the Uniform Code of Military Justice.

### 4509. ASSESSING COPYRIGHT COMPLIANCE

1. The Directors of MCWAR, SAW, CSC, and EWS shall ensure internal assessments of their organization's compliance with this section are conducted annually in a manner that they determine to be best suited for their individual organization. They shall maintain records of their assessments, to include any records of faculty training on copyright issues, for three years.

2. The Directors of the NMMC and the Library of the Marine Corps shall perform internal assessments of their organizations' compliance with their self-established copyright control SOPs annually in a manner that they determine to be best suited for their organization.

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4510. GUIDELINES FOR CLASSROOM COPYING IN NOT-FOR-PROFIT EDUCATIONAL INSTITUTIONS WITH RESPECT TO BOOKS AND PERIODICALS. Guidelines for classroom copying in not-for-profit educational institutions with respect to books and periodicals [from House Report No. 94-1476 ; reprinted in Circular 21: Reproduction of Copyrighted Works by Educators and Librarians. U.S. Copyright Office, June 1998], are as follows:

4511. GUIDELINES

1. 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;

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:

- a. The copying meets the tests of brevity and spontaneity as defined below; and,
- b. Meets the cumulative effect test as defined below
- c. Each copy includes a notice of copyright.

3. Definitions

a. 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.

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(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 "i" and "ii" 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 "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.

### b. 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.

### c. 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

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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.]

3. 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 there from 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:

(1) substitute for the purchase of books, publishers' reprints or periodicals;

(2) be directed by higher authority;

(3) be repeated with respect to the same item by the same teacher from term to term unless specifically allowed by the copyright holder or unless a new permission is obtained.

(4) No charge shall be made to the student beyond the actual cost of the photocopying.