

North Dakota State Library

Administration (701) 328-2492
Requests for Information (701) 328-4622
Requests for Information-Toll Free 1-800-472-2104
TDD (701) 328-4923
TDD-Toll Free 1-800-892-8622
NDSL Home Page <http://ndsl.lib.state.nd.us>



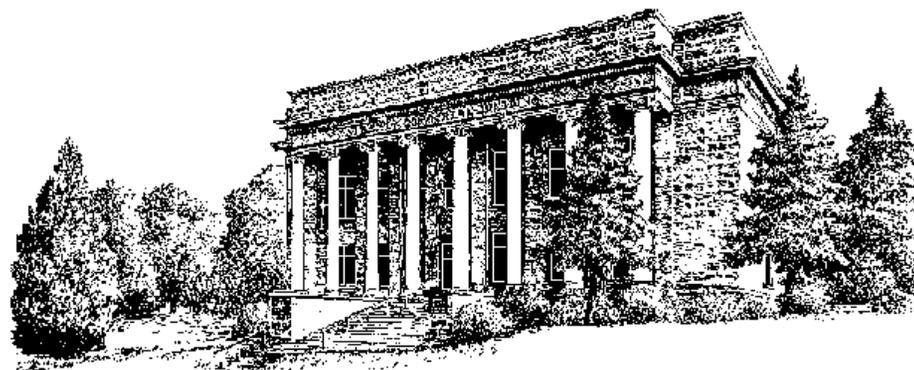
North Dakota State Library
604 East Boulevard Avenue-Dept. 250
Bismarck, ND 58505-0800

A Division of
Department of Public Instruction
Dr. Wayne G. Sanstead, Superintendent

The North Dakota State Library does not discriminate on the basis of race, color, national origin, sex, age, or disability in employment or the provision of services.
This publication is available in alternative format upon request.

Copyright Tips for Libraries

North Dakota State Library



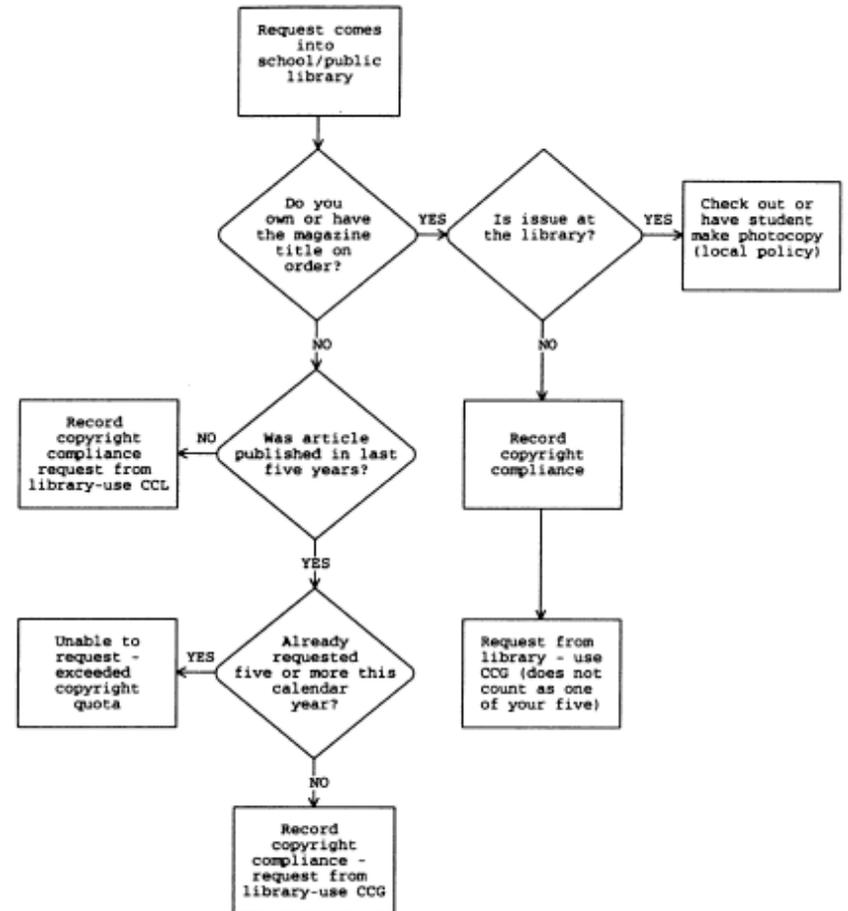
August 2001

Contents

UNITED STATES COPYRIGHT LAW	1
RIGHTS OF THE COPYRIGHT OWNER (Title 17, Section 106)	1
FAIR USE EXEMPTION (Title 17, Section 107)	2
PRINT MATERIALS	3
CCG – CONTU Copyright Guidelines	4
CCL – CONTU Copyright Law	5
OPTIONS AVAILABLE WHEN LIMIT OF FIVE IS EXCEEDED	5
COPYRIGHT WARNING NOTICES	6
GUIDELINES FOR CLASSROOM COPYING IN NOT-FOR-PROFIT EDUCATIONAL INSTITUTIONS	7
INTERNET RESOURCES	8
GOVERNMENT RESOURCES	8
COPYRIGHT POLICY	8
STATUTORY DAMAGES (Title 17, Section 504)	9
SELECTED RESOURCES	10
APPENDIX A SAMPLE TRACKING CARD	12
APPENDIX B COPYRIGHT FLOWCHART	13

APPENDIX B

COPYRIGHT COMPLIANCE FLOWCHART



APPENDIX A

SAMPLE CONTU PERIODICAL TRACKING CARD

TITLE: Organic Gardening

JANUARY-DECEMBER, 2001

DATE	ISSUE ORDERED	CCG	CCL
2/12/01	Dec. 1999	X	
3/27/01	May 2000	X	
3/31/01	July 1997	X	
4/15/01	Jan. 1990		X
9/27/01	Oct. 1996	X	
9/30/01	Aug. 1995		X
10/3/01	Jan. 2001	X	

Because five requests for articles less than five years old have been made during calendar year 2001, additional requests for articles less than five years old cannot be requested via interlibrary loan under the CONTU guidelines (CCG).

Libraries are not required to keep track of orders for articles marked CCL. Libraries may wish to do so, however, to assist with collection development decisions. Given the documented demand for articles from this title, this library may wish to consider purchasing a subscription for this title.

UNITED STATES COPYRIGHT LAW

The United States Copyright Law, Title 17, United States Code, covers all forms of tangible expression (written on paper, recorded on tape, coded into a computer). Works do not have to have a notice of copyright to be considered protected by law. One should assume that all works created January 1, 1978, or later are copyrighted unless otherwise indicated.

RIGHTS OF THE COPYRIGHT OWNER (Title 17, Section 106)

The Copyright Law gives the copyright owner of a copyrighted work these six rights:

1. Reproduction.
2. Adaptation or creation of derivative works.
3. Distribution of copies or phonorecords by sale, gift, rental, lease, or lending.
4. Public performance of the work (includes dramatic works, dance, and motion pictures and other audiovisual works).
5. Public display (includes pictorial, graphic, sculptural works, and images from motion pictures and other audiovisual works).
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

The copyright owner may sell or license any or all of these rights. Copyright is violated if any one of the six exclusive rights is violated.

FAIR USE EXEMPTION (Title 17, Section 107)

The “fair use exemption” provides several instances in which reproduction of copyrighted items is permissible. The law states that “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 of a copyrighted use is a “fair” use, ALL FOUR of the following factors are considered:

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 of substantiality of the portion used in relation to the copyrighted work as a whole.
4. The effect of the use upon the potential market for or value of the copyrighted work.

Because the law is subject to interpretation, many guidelines have been established to assist with interpretation.

Articles:

Bender, Ivan R. “Copyright Law and the Newer Technologies.” Wilson Library Bulletin (June 1993), p. 44-47.

Discusses copyright of video recordings and computer software.

Jackson, Mary E. “Copyright and ILL.” Wilson Library Bulletin (Dec. 1991), p. 84-87.

Covers interlibrary loan photocopying. Explains the CONTU Guidelines.

Salvador, Roberta. “CopyRight & Wrong: What’s Legal and What’s Not in Software Use.” Electronic Learning, Vol. 14 (Sept. 1994), p. 32-33.

Provides information about computer software copyright and license agreements.

Internet Resource:

Copyright & Fair Use. Stanford University Libraries.
URL: <http://fairuse.stanford.edu/>

SELECTED RESOURCES

Books:

Bruwelheide, Janis H. The Copyright Primer for Librarians and Educators. Chicago: American Library Association; Washington, D.C.: National Education Association, 1995. (ISBN: 0-8389-06472-7; \$25.00)

In question and answer format, this book provides explanations and guidance on the intent of the law. Contains sections on electronic environment, multimedia, and distance education concerns.

Copyright Law of the United States: Contained in Title 17 of the United States Code. Washington, D.C.: United States Copyright Office, Library of Congress, 2000. (ISBN: 0-16-059235-6; Available from the U.S. Government Printing Office; \$14.00)

Simpson, Carol Mann. Copyright for School Libraries: A Practical Guide. Worthington, Ohio: Linworth Publishing, 2001. (ISBN: 1-58683-018-X, \$42.95)

Includes information on print, audiovisual, and computer software. Provides sample permission letters, copyright do's and don'ts, and sample copyright policy.

Vleck, Charles W. Adoptable Copyright Policy: Copyright Policy and Manuals Designed for Adoption by Schools, Colleges, and Universities. Washington, D.C.: Copyright Information Service, 1992. (ISBN: 0-89240-064-1; o.p.)

PRINT MATERIALS

REPRODUCTION BY LIBRARIES AND ARCHIVES (Title 17, Section 108)

This section provides special copying rights for libraries that are open to the public or whose collections are available to outside researchers. In addition, copying must not be done for commercial advantage, and copies must bear notice of copyright.

This section allows these libraries to, among other things:

- * Copy a published work solely for the purpose of replacement of a copy that is damaged; deteriorating; lost; stolen; if the library has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price; or if the existing format in which the work is stored has become obsolete.
- * Provide a library user with a photocopy provided the copy becomes the property of the library user and the library has no reason to suspect that the copy will be used for purposes other than individual research, scholarship, or private study. Additionally, the library must prominently display, where requests are accepted, and include on order forms a warning of copyright in accordance with the requirements of the Register of Copyrights. (see "Copyright Warning Notices" p. 6)
- * Provide unsupervised reproducing equipment without subjecting the library or its employees to copyright infringement provided that a notice is displayed

prominently informing users that making copies is subject to Copyright Law. (see “Copyright Warning Notices” p. 6)

- * Participate in interlibrary loan arrangements as long as “aggregate quantities” of articles or items received do not substitute for a periodical subscription or purchase of a work.

This section does not apply to a musical work, a pictorial, graphic, or sculptural work, or a motion picture or other audiovisual work other than audiovisual work dealing with news.

CCG – CONTU Copyright Guidelines

Libraries are allowed to participate in interlibrary loan arrangements as long as “aggregate quantities” of articles or items received do not substitute for a periodical subscription. Because of the law’s lack of specificity, the National Commission on New Technological Uses of Copyright Works (CONTU) developed a set of guidelines to provide specific quantitative guidelines for interlibrary loan periodical photocopying.

- * During a calendar year, a borrowing library may receive five articles from any one periodical title. Those articles must be less than five years old at the time of request. Requests for articles meeting these criteria must indicate CCG compliance on request forms.
- * Requesting libraries must keep records to ensure no more than five articles are ordered from the previous five years

- * State the institution’s intention to abide by the letter and spirit of the Copyright Law and the associated congressional guidelines.

- * Cover all types of materials including print, non-print, graphics, and computer software.

- * State that liability for noncompliance with copyright rests with the individual using the work.

- * Require training for all personnel who might have need to make copies.

- * Require people using materials to produce, on request, copyright justification for its use.

STATUTORY DAMAGES (Title 117, Section 504)

The copyright infringer is liable for either the copyright owner’s actual damages and any additional profits of the infringer, or statutory damages as follows:

According to Title 117, Section 504 of the U.S. Code, the copyright owner may recover not less than \$750 or more than \$30,000 as the court considers just. If the court finds that infringement was committed willfully, the court may increase the award to a sum of not more than \$150,000. If the court finds the infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court may reduce the award to not less than \$200.

educational setting. These guidelines describe what a **teacher** can copy or have copied for purposes of research, teaching, or preparation for teaching, as well as what a **teacher** may copy or have copied for classroom distribution.

For additional information on these guidelines, consult Copyright for School Libraries: A Practical Guide by Carol Mann Simpson (Linworth Publishing, 2001).

INTERNET RESOURCES

- * Assume that all network information that conceivably is a “work of authorship” is copyrighted.
- * Apply the same rules to information in an online setting as you would if the material were in its traditional print form.

GOVERNMENT RESOURCES

* Not all government publications are in the public domain. The copyright rules governing public domain material apply only to federal publications, not state and local documents. In addition, copyrighted contributions contained within federal government works may be protected.

COPYRIGHT POLICY

The purpose of a copyright policy is to state the institution’s intention to abide by the law. Libraries should consider developing a copyright policy. The copyright policy should:

of any one title during a calendar year.

- * Requesting libraries must keep records for the current calendar year plus three full previous years.
- * Libraries may request articles from periodical titles which are on order, are missing, or at the bindery at the time of request. Libraries should indicate CCG compliance on request forms, but do not need to count these as one of the five requests for the title.
- * Lending libraries should stamp the photocopy: “Notice: This material may be protected by Copyright Law (Title 17, U.S. Code)” or make a photocopy of copyright notice with the article.

CCL – CONTU Copyright Law

The following are guidelines for CCL:

- * Requests for articles over five years old are not covered by the above guidelines and may be considered “fair use.” For articles over five years old, mark CCL on the ILL request form.
- * You are not required to keep records on CCL requests, although you may wish to note the title’s use for collection development purposes.

OPTIONS AVAILABLE WHEN LIMIT OF FIVE IS EXCEEDED

1. Borrow individual issues of volumes from a willing lender.

2. Purchase a copy of the requested article from a document supplier that pays royalties on each journal article supplied.
3. Join the Copyright Clearance Center (CCC). CCC does not supply copies of articles but collects fees from users and distributes them to copyright owners. Order the article via interlibrary loan.
4. Write to the copyright holder for permission.
5. Purchase the issue from the publisher or from a source of back issues.
6. Place a subscription for the journal. The CONTU guidelines allow libraries to request articles if a subscription has been placed for the title at the time of the request.
7. Identify libraries in the area who have the title and refer the patron to that library.
8. Place an interlibrary loan request to the North Dakota State Library indicating that you are willing to pay a \$15.00 fee. The North Dakota State Library will secure the article for you from a vendor.

COPYRIGHT WARNING NOTICES

Copyright warning notices must appear on both order forms and be prominently displayed wherever ILL orders are taken.

NOTICE

WARNING CONCERNING COPYRIGHT RESTRICTIONS

The Copyright Law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be “used for any purpose other than private study, scholarship, or research.” If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of “fair use,” that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of the Copyright Law.

The notice on display where ILL requests are taken must be printed on heavy paper in type no less than 18-point in size. These are commercially available.

The notice on the order form cannot be in type any smaller than that used throughout the form and no less than 8-point type.

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

Guidelines also exist to assist in defining “fair use” in an