

**Ass'n of Am. Med. Colls. v. Cuomo,
928 F.2d 519 (2d Cir. 1991)**

Year	1991
Court	United States Court of Appeals for the Second Circuit
Key Facts	Plaintiff Association of American Medical Colleges (AAMC) brought a declaratory judgment action against defendants, New York State officials, to challenge a new state disclosure law. The new law made standardized tests, answers, and related research reports public records. Test providers were required to deposit copies with the New York State Commissioner of Education. The new state law also required test agencies to offer copies of their tests to test subjects. As owner of the Medical College Admissions Test (MCAT) copyright, plaintiff argued that federal copyright law preempted the new state law. Defendants appealed the district court's ruling in plaintiff's favor.
Issue	Whether it was fair use for a state to require owners of standardized tests to make copies of their protected research and tests publicly available without their permission.
Holding	While generally in agreement with the district court, the appeals court held that genuine issues of fact remained as to whether the uses required under the new state law constituted fair use and remanded for further proceedings. In its fair use analysis, the court found that the purpose of the law was to advance important public interests: it was intended to promote the validity and objectivity of standardized tests, to encourage better testing instruments, and to ensure the accuracy of the scoring process. Furthermore, the state did not seek to exploit disclosed testing materials commercially, but for purposes of public scrutiny and study. Next, the court equated the tests with unpublished works based on their secure nature, thereby weighing against a finding of fair use. As to the amount of the work used under the law, the court found that the law would permit comprehensive disclosure of the test questions and answers, thereby weighing against a finding of fair use. As to whether the law would impact the market for the tests, the court found that any harm caused to the plaintiff stemmed from a non-commercial, non-competing use by the state.
Tags	Second Circuit; Education/Scholarship/Research; Review/Commentary; Textual work; Unpublished
Outcome	Preliminary ruling, mixed result, or remand

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