
Guidelines and Procedures for Copyright Compliance in the Use of Library Materials

BROOKENS LIBRARY- UNIVERSITY OF ILLINOIS SPRINGFIELD

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Purpose

Section 1.01 The purpose of the *Guidelines and Procedures for Copyright Compliance in the Use of Library Materials* is to provide a summary of U.S. copyright law as it relates to the use of copyright-protected works owned or licensed by Brookens Library at the University of Illinois Springfield (UIS) and to provide guidelines and procedures for obtaining copyright permission to use these works.

Section 1.02 This policy provides practical advice and procedures on copyright-related matters; however it is not a substitute for legal advice. Proper legal advice should be obtained when necessary.

Section 1.03 Brookens Library's Director of Collections and Scholarly Communications is available to answer questions about this policy and assist you in completing fair use analysis with respect to use of copyrighted materials owned or licensed by the University of Illinois Springfield and the Board of Trustees of the University of Illinois.

Article II. General Policy

Section 2.01 The collections of Brookens Library at the University of Illinois Springfield (UIS) are purchased by UIS for the nonprofit educational use of students, faculty, and staff. All library materials are acquired with the understanding that there will be multiple uses of a limited number of copies. UIS frequently pays a premium institutional subscription price for materials, which is many times the individual subscription price, for the privilege of supporting multiple academic users.

Section 2.02 The sole purpose of the reserve service provided at Brookens Library is to support teaching, scholarship, and research. Considered within this context, reserve services have been developed by Brookens Library in a manner that conforms to the plain language of applicable copyright law and that follows guidelines set forth by the American Library Association.

Article III. Applicable Law

Section 3.01 Section 107 of the U.S. Copyright Act ([Full text](#))

- (a) Brookens Library adheres to the provisions of the U.S. Copyright Act of 1976, particularly §107 which specifies the guidelines of fair use. Portions of materials protected by Copyright Law¹ may be reproduced or reused if for the purpose of commentary, parody, news reporting, research and education. However, not all uses in an academic context are automatically considered fair use.
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¹ See "[Is it protected?](#)" a wonderful digital slide rule for determining protection.

(b) The Copyright Act does not spell out the specific types of content reproduction that qualify as fair use. Rather, to determine whether Fair Use applies, four factors must be examined:

- 1) Purpose and Character of the Use: Is the proposed use for commercial or nonprofit educational use?
- 2) Nature of the Copyrighted Work: Is the work more factual in nature (scholarly, technical, scientific, etc.) or more creative expression, such as plays, poems, fictional works, photographs, paintings?
- 3) Amount and Substantiality of the Portion Used in Relation to the Copyrighted Work as a Whole: How much of the work is being copied? Is the portion being copied “the heart of the matter?” This can be infringing.
- 4) Effect of the Use on the Market for or Value of the Copyrighted Work: What is the effect of your copying and using the work on the publisher's market? How about if what you are doing became widespread?

(c) Additionally, courts interpreting fair use have identified several “good faith” factors, which weigh in favor of a finding of fair use:

- 1) Copying by faculty or university employees
- 2) Solely for educational purposes
- 3) Excerpts are fairly short
- 4) Modified by commentary, annotations, etc.
- 5) Copyright notice included

(d) For additional assistance, the following Fair Use checklists are instructive:

- 1) [Fair Use Checklist](#) (Columbia University)

Section 3.02 [TEACH Act](#) ([Full Text](#))

(a) The Technology, Education, and Copyright Harmonization Act of 2002, more commonly known as the TEACH Act, amended chapter 1 of the Copyright Act, especially §110, to incorporate provisions relating to use of copyrighted works for distance education by accredited, non-profit educational institutions. The Act applies to distance education, which includes participation of any enrolled student, on or off campus.

(b) The requirements of the TEACH Act can be summarized² as follows:

- 1) *Who* - Accredited nonprofit educational institution or governmental body

² From a presentation by University of North Florida's Office of General Counsel:
(http://www.unf.edu/cirt/events/materials/2007_11_TEACH_Act_-_CIRT.aspx)

- 2) *What* – (a) Performances of nondramatic literary works; (b) performances of nondramatic musical works; (c) performances of reasonable portions of any other work; (d) display of any other work in an amount comparable to that typically displayed in a live classroom setting. BUT NOT: digital works specifically produced for education or copies of work not legally made.
 - 3) *When* - By, at the direction of, or under the actual supervision of an instructor; as an integral part of a class session; as part of systematic mediated instructional activities; directly related and of material assistance to the teaching content.
 - 4) *How* - Transmission must be made solely for, and reception limited to students enrolled in the course. Downstream controls must be in place (these are technological measures to prevent retention for longer than a class session and to prevent dissemination in violation of the copyright holder’s rights).
- (c) Conversion of materials from analog to digital formats is not permitted **except** when there is no digital version available to the institution or the only available digital copy is technologically protected for the purpose of avoiding TEACH use.
- (d) The TEACH Act does not supersede fair use or existing digital license agreements.
- (e) For additional assistance, the following TEACH Act checklists are instructive:
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- 1) [Faculty Responsibilities Checklist](#) (California State University)

Section 3.03 [DMCA \(Full Text\)](#)

- (a) The Digital Millennium Copyright Act (DMCA) significantly changed the U.S. Copyright Act. Most notably, it incorporated at §1201 a prohibition against circumvention of technological protection systems. This anticircumvention provision must be considered when providing access to copyrighted works. Brookens Library, in negotiating licenses with vendors of digital content, ensures legal access to technologically protected data.
- (b) For additional assistance, the following sites are instructive:
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- 1) [Copyright Basics: DMCA](#) (Copyright Clearance Center)

Article IV. **Reserves and BlackBoard Use**

Section 4.01 General Guidelines for Materials Protected by Copyright

- (a) Permission – The following items will not be placed on reserve without permission from the copyright holder. The Library may be able to assist with this process.³
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- 1) Reproduction of more of the work than permitted under fair use

³ Sample copyright permissions letters can also be found online at the Columbia University Copyright Office [website](#) or at the [website](#) of the Copyright Clearance Center.

- 2) Materials obtained through interlibrary loan, owned by another library, or otherwise not owned by Brookens Library
- 3) Photocopied or scanned works used for successive semesters
- 4) Photocopied or scanned work used in multiple courses
- 5) "Consumable" works – e.g. workbook, standardized tests, exercises
- 6) Unpublished works
- 7) Student work
- 8) Any other works wherein it is specified that permission must be obtained prior to use

(b) Books

- 1) In-Library Reserves
 - a) *Only books owned by Brookens Library or personal copies owned by the requesting instructor may be placed on reserve*
 - b) *Books obtained through interlibrary loan cannot be placed on reserve*
 - c) *Books on reserve may be checked out for the following time periods, as specified by the requestor:*
 - i) *2 hour in library use only*
 - ii) *3 day*
 - iii) *7 day*
- 2) Electronic Reserves and BlackBoard
 - a) *Entire books cannot be scanned for placement on electronic reserve or on BlackBoard*
 - b) ***No more than 15% or two chapters, whichever is less***, of a book (for anthologies, see below) may be electronically scanned and placed on electronic reserve. The portion that is copied cannot consist of the "heart of the work."
 - c) *Where the book is an anthology comprised of multiple works (e.g. poems, essays) by various authors, no more than three items may be copied from the anthology. Copyright law prohibits the re-creation of an anthology or compilation by reproducing articles from multiple sources.*

(c) Periodicals

- 1) General
 - a) *No more than one article may come from any single journal issue*

- b) *No more than 25 articles will be placed on reserve for a course*
- c) *When copies of articles are provided to the Library, a full bibliographic citation as well as a notice of copyright must be attached*

2) In-Library Reserves

- a) *Multiple copies of a single article may be placed on reserve at a ratio of one copy per 25 students*
- b) *Neither entire bound volumes of a journal title nor microfilmed periodicals will be placed on reserve*
- c) *Articles on reserve may be checked out for the following time periods, as specified by the requestor:*
 - i) *2 hour in library use only*
 - ii) *3 day*
 - iii) *7 day*

3) Electronic Reserves and BlackBoard

- a) *Preferred method of posting is a direct link. Links to content in the Library's licensed databases may be used on electronic reserve for an unlimited period of time, unless a particular database vendor's license prohibits such reuse. The Information and Access Services staff will assist with determining whether a persistent URL can be used as a link to the material.*
- b) *Course packets will not be scanned and placed on electronic reserve*
- c) *Journal articles available freely online are not de facto public domain and are protected by copyright law. Fair use guidelines still apply.*

(d) Video

1) In-Library Reserve

- a) *Only videos owned by the library or the instructor may be placed on reserve.*
- b) *Videos placed on reserve are restricted to a 2 hour in library use only loan period.*

2) Electronic Reserves and BlackBoard

- a) *Streaming Video - The TEACH Act allows the posting of film clips into a course management site, such as Blackboard; however, the TEACH Act is more restrictive than the classroom exception for viewing films. It permits distribution of "reasonable and limited" portions of films, provided that reasonable steps are taken to prevent students from making more copies or retaining a copy of the film clip beyond the duration of the*

class. This means that only portions of a film can be digitized for inclusion in a Blackboard site. The amount used should be no more than is necessary to accomplish the pedagogical purpose, and must always be less than the whole.

- i) For dramatic works such as feature films, instructors should use only a reasonable and limited portion of the work (up to 10%); streaming a full-length feature film is not considered “fair use.”
 - ii) For non-dramatic musical works (such as simple, unadorned playing or singing of songs) and non-dramatic literary works (such as poetry readings, or readings from novels), the entire work may be used.
 - iii) Access to the film clips needs to be limited to a set time period in relation to the particular class session or lecture the film clip supports.
 - iv) For those films which the Library has acquired a digital license or permission from the copyright holder, the entire duration of the film may be streamed.
 - v) Note – some films in the Library’s collection are expressly prohibited from being digitized and streamed in any quantity for the purposes of distance or online education.
- b) *Linking/Embedded Video - Linking to video that is already available online, such as embedding a YouTube clip, does not qualify as a copyright violation. However, common sense and caution should still control when linking to or embedding online content. Use of University owned materials in contradiction to fair use guidelines by placing more than the allowable content on a site such as YouTube is strictly prohibited.*
- c) *Special Note on Embedding Video Clips in Multimedia Presentations – Faculty and students can use portions of copyrighted content in their multimedia presentations (such as a PowerPoint presentation), under certain restrictions. According to commonly accepted fair use guidelines for educational multimedia, up to 10% or 3 minutes, whichever is less, of a film or “motion media work” may be reproduced as part of an educational multimedia project.*

3) Showing Films on Campus

- a) *The Library holds in its collection a large number of videos (VHS and DVD) that may be utilized by members of campus. If the showing of the film is outside of a regularly scheduled course (in a classroom, face-to-face setting) or is open to the campus or public, or is otherwise marketed to a broader audience than persons enrolled in a course, then it is a public performance under the Copyright Act, and copyright permission may need to be obtained prior to showing the film.*
- b) *The online catalog record for individual films now includes a note relating to the copyright permissions that pertain to that title. If the copyright permissions note is unclear, please inquire at Information and Access Services for assistance.*

(e) Audio

1) In-Library Reserve

- a) *Only audio materials owned by the library or the instructor may be placed on reserve.*
- b) *Audio materials placed on reserve are restricted to a 2 hour in library use only loan period.*
- 2) Electronic Reserves and BlackBoard– pursuant to guidelines promulgated by the Music Library Association:
 - a) *Digital copies should be made only of works that are being taught in the course or study.*
 - b) *Digital copies may be made of whole movements or whole works.*
 - c) *Either the institution or the course instructor should own the original that is used to make the digital file. The Library should make a good faith effort to purchase a commercially available copy of anything that is provided by the instructor.*

(f) Other

- 1) Websites – links to websites may be listed upon a Blackboard site. However, copying text directly from a website and onto a Blackboard site or other medium may be an infringement of copyright.
- 2) Images
 - a) *Copyrighted images are often posted online without proper authorization. A digital image can be an original, a reproduction, a published reproduction, or a copy of a published reproduction. Images needing digitization must either be in the public domain or be displayed consistent with fair use.*
 - b) *Under fair use, no more than 5 images from an artist/photographer, or no more than 10% or 15 works from a published collective work can be placed on reserve.*

Article V. Additional Resources

Section 5.01 Websites

- (a) [The Campus Guide to Copyright Compliance](#) – Copyright Clearance Center
 - (b) [Stanford Copyright and Fair Use Center](#)
 - (c) [Columbia University Copyright Advisory Office](#)
 - (d) [TEACH Act Tool Kit](#) – North Carolina State University
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Section 5.02 Books

- (a) Armatas, Steven A. [Distance Learning and Copyright: A guide to legal issues.](#) REF KF 3030.1 A955 2008
 - (b) Crews, Kenneth D. [Copyright Law for Librarians and Educators.](#) REF KF 2995 C74 2006
 - (c) Fishman, Stephen. [The Copyright Handbook.](#) REF KF 2995 F53 2002
 - (d) Lipinski, Tomas A. [The Complete Copyright Liability Handbook for Librarians and Educators.](#) REF KF 3080 L57 2006
 - (e) Stim, Richard. [Getting Permission.](#) REF KF 3024 C6 S75 2000
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