

UNIVERSITY OF UTAH LIBRARIES RESERVE GUIDELINES

I. Introduction

The J. Willard Marriott Library, Spencer S. Eccles Health Sciences Library, and the S.J. Quinney Law Library reserve and electronic reserve act as an extension of the classroom to provide access to supplementary course material in support of the academic mission of The University of Utah. This includes material made available to students through the paper and electronic reserve systems, Blackboard/WebCT, OLMS, and other course management systems used on campus. The Libraries follow the copyright law and expect faculty and staff to comply with this policy.

a. Who makes decisions

Initial decisions concerning materials to be placed on reserve will rest with the faculty teaching the course. The Reserve Manager may determine whether faculty requests for materials on reserve falls within the policy. The Copyright Specialist or designated library personnel will make periodic audits of material on campus course management system to check policy compliance. If the material is rejected or found outside the bounds of the policy for any reason, the instructor will be notified immediately. For assistance with decisions, call

b. Responsibilities

Faculty members are responsible for:

- Submitting material to be placed on reserve in a timely manner
- Complying with the university reserve policy

The Library is responsible for:

- digitization (scanning, audio/video digitizing)
- security and access controls

Limited to the library paper and electronic reserve systems

- basic cataloging of material (e.g. author/title)
- organization of material by course and instructor(s)

Subject to specific library guidelines, the library or college is responsible for:

- obtaining permission when necessary
- payment of permission fees

II. Copyright Law and Educational Use

a. Fair Use

Copyright law defines the copying of material for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research not infringements of copyright if the following four 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 and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

(17 U.S.C. §107)

b. Public domain works

Works in the public domain do not require copyright permission. They include works for which the copyright has expired and works of the U.S. Government. A chart listing the length of the copyright term by year published / created can be found at:

http://www.copyright.cornell.edu/training/Hirtle_Public_Domain.htm.

c. Faculty owned works (faculty owns copyright)

Faculty can use their own work without permission provided that they own the copyright. Most faculty transfer their copyright when they submit a work to be published. Faculty should not assume that they own the copyright to something that they have authored. They may have retained the right to use it for a class that they are teaching even if they have transferred copyright. If any questions arise, contact the copyright specialist.

The University of Utah has made an effort to promote faculty copyright retention of their authored works through the University of Utah Institutional Repository (IR): <http://ir.utah.edu>. Works in the University of Utah IR may be linked to a course website, WebCT course, or electronic reserve unless a restriction is specified for a particular item. A restriction may include a statement that the copyright is held by

the author or publisher and permission is required if linking to the item is not covered under Fair Use.

d. Links to licensed and unlicensed products

The library has many license agreements with publishers that may allow items to be linked directly from a database to which we have a subscription. If you would like to link to an item that we do not have a license for or it is not within the agreement, then permission may need to be obtained.

e. Other material not covered by copyright protection

1. Facts
2. Freeware / Open source / Open access
Material under these categories is protected by copyright law but choose to opt out of those “exclusive rights.” There may be guidelines for the specific material, in order to use it, but the concept is that permission is not needed.
3. Works that lack originality
E.g. logical compilations of information (phonebook); reprints of public domain works. (Note: reprints of public domain works with non public domain annotations or footnotes are protected.)
4. An idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in a work.

f. TEACH Act

The “Technology, Education, and Copyright Harmonization Act of 2001” makes additional allowances for viewing performances and displays for **distance education**. This act allows “performance of a non dramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission,” if:

- a) made by the direction of the instructor as “an integral part of a class”;
- b) directly related to the material of the course;
- c) the transmission is for and limited to the students enrolled in the course and employees performing official duties
- d) the institution takes preventative measures required by the Act

exceptions:

- a) “except with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks,”

b) material made available via a known unlawful copy

g. Works published internationally

Countries all over the world have different copyright standards for what is and is not permitted for educational uses. There is no international copyright law. Instead copyrights are enforced by treaties, some of which also have attempted to bring copyright standards closer together. The U.S. Copyright Office keeps a list of treaties and countries: <http://www.copyright.gov/circs/circ38a.htm>. If you are unsure, please contact the copyright specialist at the library.

III. Types of works acceptable for reserve, e-reserve, or placement on a course management system

Materials placed on reserve will be at the initiative of instructors for the educational and non-commercial use of their students, and must conform to established copyright guidelines. Access will be terminated at the end of the semester.

If the library owns or subscribes to a copy that is available digitally through any of the following means, it will be made available via a link on e-reserve or in a course site (e.g. a course in WebCT) when permitted by copyright or license agreements:

- Electronic Databases (including but not limited to journals, books, & images)
- The University of Utah Institutional Repository
- Digital Library Collections

a. Books

i. Complete Books

Complete books may be placed on reserve in their physical form (not copied) if they are owned by the library or the faculty member. Interlibrary loan books will not be placed on physical reserve. Complete books under copyright protection will not be placed on electronic reserve or a course management system (e.g. WebCT) without written permission. If the library owns or subscribes to a book that is available electronically, the link to the e-book can be made available unless otherwise specified.

ii. Chapters/Portions

Chapters and portions of books that conform to Fair Use or permission has been granted will be placed on reserve.

b. Journal Articles, Newspaper Articles, Book Reviews, etc.

Library, faculty, and interlibrary loan copies may be made available. If their use does not conform to Fair Use, then permission will be sought. If the Library has an electronic licensed copy of a journal article that may be linked from e-reserve, then the item in e-reserve will be a link to the licensed

database copy, or if a copy is available in the U of U Institutional Repository or Digital Library collection, it will also be linked from the e-reserve system.

c. Media

i. Audio

Audio can be made available on reserve in physical form. Electronic audio files will be streamed and conform to restrictions listed in Section V. Restrictions, a. Length of works, total amount of material for a course, iv. Video/Audio.

ii. Video

Video can be made available on reserve in physical form. Personal copies will be made available in Reserve. Electronic video files will be streamed and conform to restrictions listed in Section V. Restrictions, a. Length of works, total amount of material for a course, iv. Video/Audio.

iii. Images

Digital image files can be made available on e-reserve or through a course management system. They must conform to restrictions listed in Section V. Restrictions, a. Length of works, total amount of material for a course, iii. Images.

d. Miscellaneous Items

Syllabi, learning objects, where the faculty is the creator/owner, fall under Fair Use, or permission has been acquired, can be made available.

IV. Requirements

a. Notice of copyright

- any copyright notice on the original
- appropriate citations and attributions to the source
- a [Section 108\(f\)\(1\)](#) notice.

b. Permissions

Acknowledging the source of the copyrighted material does not substitute for obtaining permission. Permission is often granted for a particular course during a particular semester. If you received permission previously, you may still need to ask again. Obtain permission in writing. The University of Texas libraries maintain a good listing of where to ask permission: <http://www.utsystem.edu/ogc/IntellectualProperty/permisn.htm>. You can search registered U.S. copyrighted works for their rights holder from the U.S. copyright office: <http://www.copyright.gov/records> or the Copyright Clearance Center: <http://www.copyright.com>.

A sample permission request can be found at the end of this document in Appendix A.

V. Restrictions

a. Length of works, total amount of material for a course

Since reserve materials are intended to be supplementary, please keep this in mind when determining how much material to put on reserve for your course.

There is not a legal requirement of the length of work allowed under Fair Use; however, U.S. House Report (H.R.) 94-1476, "Guidelines on Multiple Copying for Classroom Use" may be used as *guidelines*. The following guidelines are an adaptation of the University of Texas Libraries interpretation of the House guidelines and Fair Use and represent minimum standards.

1) Books

- single chapters or 10%, whichever is greater
- several charts, graphs or illustrations

2) Journal Articles

- single articles from a journal issue
- several charts, graphs or illustrations

3) Images

- If image is available digitally to link to, purchase or license, then do so.
- If it is not available digitally, then provide a small low resolution thumbnail.
- You may use images in library licensed databases such as ARTstor.
- exact duplication of public domain two-dimensional artwork is not protected by copyright because it lacks the requisite originality

4) Video/Audio

The TEACH Act only applies to distance education (UOnline at the University of Utah) and permits full transmission as:

- Live interactive distance learning classes
- Delayed transmission of faculty instruction.

To comply with these concepts, entire audio and video transmissions will typically be available for a maximum for two weeks for students to view.

Video/Audio not for distance education should be used:

- sparingly
- only if a faculty member or the institution possesses a legal copy of the work

Although the TEACH Act only applies to distance education, Fair Use may still be used to determine whether permission should be sought for use in non distance courses.

Audio and video will be made available as streamed media or in physical form.

b. Restriction to members of the class

To the extent technologically feasible, all items will be password protected and restricted to those enrolled in the course and necessary administrators.

c. Repeated use

If repeated use violates the four factors of Fair Use, then permission must be sought for the repeated use.

VI. Licensed works – links or reproduction of work into system

If the library has a license agreement that makes the work available for use, it shall be linked to the course reserve or course site rather than rescanned or uploaded directly for that course.

VII. Violations of the policy

If you are found in violation, you will be notified immediately and the violating items will be taken down. If you violate the copyright policy and copyright law, you are putting the University of Utah in harm's way. Copyright violation is a federal offense, and damages can be awarded up to \$100,000 per instance of infringement.

VIII. Resources

American Library Association, Statement on Fair Use and Electronic Reserve.
<http://www.copyright.gov/reports/studies/dmca/dmca/study.html>

American Library Association. New copyright law for distance education: The meaning and importance of the TEACH Act.
<http://www.ala.org/washoff/teach.html>

Campus Copyright: Rights and Responsibilities. (2005) Association of American Universities, the Association of Research Libraries, the Association of American University Presses, and the Association of American Publishers.
http://aaupnet.org/aboutup/issues/Campus_Copyright.pdf

Copyright Clearance Center.
<http://www.copyright.com/>

Hirtle, Peter B. Copyright Term and the Public Domain in the United States.
http://www.copyright.cornell.edu/training/Hirtle_Public_Domain.htm

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

University of Texas System Crash Course in Copyright.

<http://www.utsystem.edu/OGC/IntellectualProperty/cprtindx.htm>

(Step-by-step lessons in copyright and fair use fundamentals within a university setting.)

U.S. Copyright Office.

<http://www.copyright.gov>

U.S. House Report (H.R.) 94-1476, Guidelines on Multiple Copying for Classroom Use.

<http://law2.house.gov/uscode->

[cgi/fastweb.exe?getdoc+uscview+t17t20+12+1++\('fair%20use'%20exemption\)](http://fastweb.exe?getdoc+uscview+t17t20+12+1++('fair%20use'%20exemption))

Appendix A: Sample Permissions Request

March 1, 2006

Copyright Permissions Department Mosaic Press
85 River Rock Drive
Buffalo, NY 14207

Dear Sir or Madam:

May I have permission to copy the following for placement on electronic reserve at the University of Utah J. Willard Marriott Library:

Author of chapter: Mood, John J.
Title of chapter: The Structure of A Streetcar Named Desire Pages of chapter: 9-19
(Chapter 2).
Title of book: Tennessee Williams: A Collection of Critical Essays
Editor of book: Stanton, Stephen
Publisher: Mosaic Press
Date of publication: 1977

for:

Course: ENG 3560 "American Drama"
Semester: Fall 2006
Instructor: Professor Smith

It will be password protected and available to only the 28 students registered in the course.

Sincerely,
xxxxx