

FACULTY GUIDE TO THE 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.

II. Fair Use

Copyright law contains “Fair Use” doctrine (17 U.S.C. §107), which permits the copying of material for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, and research without requiring permissions. A fair use analysis must be performed where 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.

III. TeachAct

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 institutional 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 know unlawful copy"

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 only be available for a maximum for two weeks for students to view.

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.

IV. Material Placed on Reserve

- Material 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. There are no legal specifications on amount or frequency 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 ***minimum guidelines***.
- Access will be terminated at the end of the semester.
- No material will be placed on paper or electronic reserve without obtaining permission or having performed a fair use analysis and determining that permission is not required.
- Material that required permission in the paper coursepack environment requires permission if made available through electronic reserve.
- All items on reserve will contain a copyright notice and attribution of the source.
- All items will be password protected and restricted to those enrolled in the course and necessary administrators to the extent technologically feasible.

- Audio and video material will be made available through streaming.
- Material used repeatedly must have a fair use analysis performed or permission obtained at each future use.
- Whenever possible access will be provided via a link rather than producing a digital copy. Examples of this include:
 - Library Licensed Electronic Databases (including but not limited to journals, books, & images)
 - The University of Utah Institutional Repository
 - Digital Library Collections
 - Material available legally on internet

V. Permission is Not Required

- Works in the public domain
- Facts
- 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.
- 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.)
- 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.

VI. Permission May Still be Required

- Material used for the first time
- Supplementary, optional, or recommended material
- Faculty authored content
- Material is available openly on the internet

VII. Student Copying

Instructors should not encourage or direct students to unlawfully copy course content.