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Library Guidelines

Poynter Library Spaces

Information Commons Software

Food in the Library Guidelines

Textbooks Guidelines

Nelson Poynter Memorial Library
USF St. Petersburg, POY 316
Nelson Poynter Memorial Library
Phone: 727-873-4978

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This web page is maintained by: Berrie Watson.
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Textbooks Guidelines

June, 2011

The Nelson Poynter Memorial Library purchases materials which support the teaching and research mission of the University of South Florida St. Petersburg. The library collection is intended to provide research materials and other resources which supplement the learning experience taking place in the classroom. The Library's budget for new acquisitions is small and space for new collections is shrinking every year; each new acquisition is carefully selected to provide the maximum long-term advantage for the students and faculty of USFSP.

As a general guideline, the Library does not add textbooks to the circulating collection, either as a purchase or when offered as a donation. The Library may acquire textbooks selectively for the collection if they have long-term research or study value or if they cover a new or emerging discipline. In those cases when a textbook is acquired for the general circulating collection, only a single copy will be added without any implied commitment to acquire future editions of the textbook. One copy of current textbooks authored or edited by a member of the USFSP faculty will be purchased for addition to the USFSP Faculty Publications collection. Sometimes texts required for a course may already be part of the library's holdings because they meet the criteria of the Library's general collection development policy, not because they are required for specific classes.

REASONS FOR THIS GUIDELINE:

- Textbooks are quickly outdated and updated frequently, often annually or biannually. The Library budget and reduced staffing levels make it impossible to purchase hundreds of new textbooks for the collection every year or two.
- Textbooks are designed to be used by students for courses of study. Students refer to them often and need them throughout a course. As students use textbooks throughout a course, they need them longer than the standard loan period.
- Because of the high cost and high demand, textbooks are often targeted for theft in a library.
- Textbooks often include exercises, workbooks, quizzes, and lab manuals, which students need to complete coursework. Library materials cannot be written in nor have pages removed; textbooks often are not appropriate materials for long-term use in the Library's collections.
- It is impossible for the Library to meet student demand for all textbooks at USFSP; purchasing only some textbooks would place all other students at an unfair disadvantage.
- Unlike other library materials, the need for textbooks is time-sensitive and they are often difficult to purchase in a timely fashion.
- Due to financial and space constraints, the Library generally only purchases one copy of a work. We would not be able to purchase enough copies for the work to be available to all students in a class.
- With library shelf space already limited, textbooks would displace materials of wider interest.

- Acquisition would be in conflict with the library's mission to develop a collection of lasting value in support of all academic programs of the University.

For the purpose of this guideline, a textbook is described as a book designed to be used in the classroom to introduce students to a subject or to continue basic instruction at the intermediate or advanced levels of a subject. Textbooks typically include study questions, discussion topics, study guides or exercises at the end of each chapter; they often have a companion teacher's edition; and they are commonly reissued frequently in order to update information in previous editions. Textbooks may be designed for use in undergraduate courses, graduate courses, or for use in professional programs. Textbooks may be published either as printed books or electronic books.

Textbooks that are required for USFSP courses are part of the student's expected cost of pursuing a degree in higher education, and it is the student's responsibility to acquire them. Students and faculty should not expect the Library to mitigate the costs to students of the selection of high-priced textbooks for courses.

REQUIRED COURSE TEXTBOOKS AND INTERLIBRARY LOAN (ILL)

Although we understand that textbook prices are especially high, the Library is unable to borrow specific required course textbooks via ILL for the following reasons:

- Few libraries purchase textbooks.
- Even fewer libraries have the newest editions as soon as they are printed and required for use by professors for classes.
- Of those few libraries that do purchase textbooks, textbooks are usually reserved for their own campuses use and are not loaned to other libraries.
- Loaned books usually take one-two weeks to arrive, so students would already be far behind in class work and reading by the time they arrive.
- Students would only get to keep a textbook borrowed through ILL for about three weeks. Keeping a book obtained through ILL longer than the allowed loan period would result in fines.

LIBRARY RESERVES

An instructor may choose to place a personal copy of a textbook on reserve for a specific course; the textbook will be returned to the instructor at the end of the course. Please review the Library's Reserve Guidelines at http://www.nelson.usf.edu/access_services/circulation/reserves.html

Instructors wishing to place photocopies of published materials on reserve must abide by all USFSP and USF System Policies, as well as copyright law. Instructors should review the USF System's Copyright Policy http://generalcounsel.usf.edu/policies-and-procedures/pdfs/policy-0-105.pdf which clearly reviews what is acceptable and the U.S. Government's Copyright section on Fair Use http://www.copyright.gov/fls/fl102.html. Fair use does not allow for photocopying significant portions of published texts. Both USF System policy and national law urge faculty to err on the side of caution when photocopying materials for instructional purposes. Faculty members are responsible for obtaining the correct permissions from copyright holders for items placed on Reserve. Copyright compliance is mandatory. **Instructors must sign the Copyright Compliance statement** on the printed Reserve form. Graduate assistants **may not** sign in their instructors' stead.

Welcome
Hours & Directions
+ Circulation Policies
- Services
Interlibrary Loan/ILLiad
Reserve & Electronic Reserve Collections
Patron Disability Services
Study Rooms
Copying & Printing
+ Request Forms
Access Services Contacts

Access Services, Circulation
USF St. Petersburg, POY 104
Nelson Poynter Memorial Library
Phone: 727-873-4405

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This web page is maintained by: Lexi Terry.
Last updated: 1/4/10

Access Services

Reserves/Electronic Reserves Guidelines

Print Reserves

Faculty members are invited to place materials on Reserve at the Circulation Desk for the benefit of students in their classes. These materials may include, but are not limited to, books and journals owned by Poynter Library, personal class notes and exams, items obtained from other Libraries of the USF System, and videos or class tapings. Materials borrowed from libraries other than Libraries of the USF System may not be placed on Reserve. These materials generally have limited circulation periods and are subject to immediate recall.

Students may not place materials on Reserve unless specifically authorized by their instructor who must provide the Circulation Desk staff with a written notice of the exception that includes the student's name.

Reserve request forms are available at the Circulation Desk or by e-mailing champion@nelson.usf.edu. Completed forms with a copy of the course syllabus and all materials to be placed on Reserve may either be brought to the Circulation Desk or sent by courier to POY 120 in care of the Head of Access Services. A separate reserve request form must be submitted for every course with reserve materials. Each reserve item must be listed individually.

If material owned by another Library of the USF System is needed for course reserves, faculty are responsible for submitting the interlibrary loan request at least two weeks before the item is needed. The loan request form (available from http://guides.lib.usf.edu/ill) should contain the course number and the loan period (3 hr, 1 day, 3 day, 7 day) in the notes field.

Faculty members are responsible for obtaining the correct permissions from copyright holders for items placed on Reserve. Copyright compliance is mandatory. **Instructors must sign the Copyright Compliance statement** on the printed Reserve form. Graduate assistants **may not** sign in their instructors' stead.

IMPORTANT – Materials should be submitted a minimum of two weeks before the term begins in order to ensure timely processing. Items received after that point will be added on a first-come, first-served basis.While classes are in session **please allow at least 3 working days** for the Access Services staff to process your Reserve materials **before** telling your class that these materials are available.

Items usually check out for 3 hours, but alternative loan periods of l day, 3 days or 7 days are available and can be selected on the Reserve Request Form by the instructor.

Information regarding copyright and a sample letter requesting copyright permission are available at

University Copyright Policy

Additional information is available at:

Copyright Information

Publishers' addresses may be obtained from the online version of *Books in Print* available at: *Books in Print*

Electronic Reserves

Some items may be scanned and placed on Electronic Reserves through BlackBoard if desired. These materials may include journal articles (for one semester only unless copyright permission has been received for a longer time period), class notes, samples of the instructor's tests or reviews, class schedules, and exam dates. Because of copyright restrictions, certain items may **NOT** be placed on Reserve. These materials include, but are not limited to, publisher-produced workbooks and exercises, standardized tests, test booklets, answer sheets, and other similar consumable materials.

For efficient and legible scanning, loading, and printing, **materials should be clean, unmarked, and single-sided without black margins** . These materials may be brought to the Circulation Desk.

Materials are processed in the order in which they are received. Please allow a minimum of **3 days** before telling your students that these materials are available online.

For further information please contact Virginia Champion at champion@nelson.usf.edu.

UNIVERSITY OF SOUTH FLORIDA SYSTEM

(a) POLICY

✓USF System ☐USF ☐USFSP ☐USFSM ☐USFP

Number: 0-105
Subject: Use of Copyrighted Materials

Date of Origin: 08-30-96 **Date Last Amended:** 03-31-10 **Date Last Reviewed:** 03-31-10

II. INTRODUCTION (Purpose and Intent)

The University of South Florida System (USF System) is dedicated to instruction, research and service based on the highest standards of discovery, creativity, and intellectual attainment. It is the policy of the USF System that its faculty, staff and students carry out their scholarly work in an open and free atmosphere that is consistent with applicable laws and USF System policy.

As such, the USF System is committed to complying with all applicable laws regarding copyrights as set forth in the United States Code, Title 17 (the "Copyright Act"), and supports responsible use of copyrighted material as statutorily exempted by §110(1) and (2) of the Copyright Act (Face-to-Face Teaching Exemption and the "Technology, Education and Copyright Harmonization Act" or "TEACH Act", respectively) and further supports the responsible and good faith fair use of copyrighted materials in accordance with §107 of the Copyright Act ("Fair Use").

III. GENERAL PRINCIPLES OF COPYRIGHT LAW

A. What Is a Copyright and What Does It Protect?

1. Types of Work Protected

Copyright law protects "original works of authorship," that are "fixed in a tangible medium." This protection is available for both published and unpublished works. Copyrightable works include the following categories:

- Literary works (including software and "compilations")
- Musical works (including any accompanying words)
- Dramatic works (including any accompanying music)
- Pantomimes and choreographic works
- Pictorial, graphic, and sculptural works (including architectural plans)
- Motion pictures and other audiovisual works
- Sound recordings
- Architectural works

2. Rights That Are Protected by Copyright

Under copyright law, copyright owners have the exclusive right to do (and authorize others to do) certain things with respect to their copyrighted work, including: make copies of the work, distribute copies of the work, display or perform the work publicly, make derivative works, and transmit the work electronically.

B. <u>Works That Are Not Protected by Copyright</u>

Several categories of material are generally not eligible for federal copyright protection. Such materials may be used freely without regard to copyright protections. These include among others:

- Works in the public domain. For example, most government works are in the public domain and may be freely used. All copyrighted works will eventually fall into the public domain. Copyright protection generally lasts for the life of the author plus 70 years.

- Works that have ***not*** been fixed in a tangible form of expression, (for example, improvisational speeches or performances that have not been written or recorded).

- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents.

- Works consisting ***entirely*** of information that is common property and containing no original authorship (for example: standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources).

IV. USE OF COPYRIGHTED WORKS BY FACULTY, STAFF AND STUDENTS

The USF System supports the responsible use of copyrighted material as statutorily exempted for face-to-face and distance teaching activities, and for the good faith exercise of full fair use rights by faculty, librarians, staff and students in teaching, research and services activities.

However, except as allowed by law, it is a violation of law and this Policy for USF System faculty, staff or students to use copyrighted material without proper purchase or to reproduce, distribute, display publicly, perform, digitally transmit, or prepare derivative works based upon a copyrighted work without permission of the copyright owner.

As such, appropriate methods of using copyrighted material are as follows:

A. Obtaining the Right to Use Material by Proper Purchase

Unless you have the copyright owner's permission or your activity is covered by a legal exemption (as discussed below), faculty, staff and students may not copy, reproduce or distribute copyrighted material. Faculty, staff and students must purchase appropriate copies of all material needed for classroom activities. Purchasing a copy of copyrighted material only provides the right to use that copy for personal use. Purchasing a copy does not provide the right to make and distribute copies of the material.

B. Obtaining Permission of the Owner

Except when the activity is covered by a legal exemption (as discussed below), faculty, staff and students of the USF System must obtain permission from the copyright owner for any use that involves the copying and distribution of copyrighted work to others. A standard permission request is attached. **Permission Request Form**

Permission may also be obtained by paying appropriate license fees through the Copyright Clearance Center or through your campus or local printing outlet.

C. Face-to-Face Teaching Exemption

Section 110 of the Copyright Act allows faculty to use or display copyrighted materials during face-to-face teaching activities. Such use does not require the owner's permission. The exemption applies as long as there is: (i) no direct or indirect admission charge; (ii) it is a regular part of the instructional activities; and (iii) it is directly related to the teaching content. Note, however, this exemption does not permit copying or distributing a work – only the display, teaching and/or performing. (See Section IV.B. of this Policy for "Additional Guidelines for Classroom Copying.")

D. Fair Use Exemption

The "Fair Use" statutory exemption allows certain specified uses of limited portions of copyrighted material without requiring permission of the copyright holder. Fair use allows faculty to make copies of limited portions of a copyrighted work for non-profit educational purposes.

V. FAIR USE GUIDELINES

A. Elements of Fair Use–Good Faith Consideration Required

USF System faculty or staff who propose to make fair use of copyrighted material must consider four statutory factors to be weighed in making a fair use analysis. Faculty or staff must make a good faith advance determination based on these four factors:

1. What is the character of the use?

- Is it for an educational purpose?
- Educational purposes are more likely to be considered fair use.

2. What is the nature of the work to be used?

- Is the work primarily imaginative or factual?
- Use is more likely to be considered fair if the work is more factual in nature.

3. What is the amount and substantiality of the portion to be used?

- Is it a small portion or the whole work?
- Using a portion of the work is more likely to be considered a fair use.

4. Will the use negatively affect the value of the copyrighted material?

- Does the copied material compete with potential profits of the copyright owner?
- An instance is more likely to be considered fair use if it has no impact on potential profits of the copyright owner.
- Repeated use tends to affect market value.

B. <u>Additional Guidelines for Classroom Copying</u>

The following guidelines will assist you in determining if your use of copyrighted materials is permissible. The outer limits of fair use may reach further than the limitations suggested by these guidelines. When material sought to be copied falls outside the scope of the guidelines, faculty and staff should secure permission to copy from the copyright owners.

1. A single copy of material to be used for teaching purposes is acceptable.

2. Use only a small amount of the copyrighted material in relation to the whole work – for example, a single chapter of a book, an article, or a few photos from a larger collection.

3. Making multiple copies is acceptable provided that:

- The number of copies does not exceed more than one copy per student.
- The inspiration and decision of the teacher to use the work and the moment of its use should be reasonably close in time.
- The work includes a notice of copyright.

4. Multiple copying and distribution of copyrighted material should not be substituted for the purchase of books by the students.

5. If copies of copyrighted material will be used in the classroom or put on reserve in the library for multiple semesters, then obtain permission from the copyright owner.

6. Obtain permission and/or pay appropriate license fees to use copyrighted material for course packs or other material used for non-classroom study purposes.

7. Do not copy and distribute consumable materials such as workbooks, standardized tests, test booklets, etc.

C. Additional Guidelines for Using Audiovisual, Literary and Musical Works

A teacher may perform, display, or otherwise use motion pictures and other audiovisual works, or recorded copies thereof, and literary or musical works in the classroom, provided:

1. The use, performance or display is in the normal and regular course of teaching activities and not for entertainment purposes;

2. All recorded copies of audiovisual works are lawfully made;

3. No transmission is made beyond the place where the copy is located (i.e. outside the building or general area of classroom);

4. The use is limited to students enrolled in the course;

5. The purpose is strictly educational in nature, not for the recreation and/or entertainment of the audience; and

6. The following restrictions are observed in the off-the-air recording and use of television and cable programs:

a) The program can be recorded only once by or at the request of an individual teacher, even if the program has been broadcast numerous times, and must include the copyright notice;

b) The program must be used within ten school days of its recording and can be used only twice during that period once as a teaching aid and once for reinforcement;

c) The copy must be erased or destroyed at the end of forty-five school days after recording (during the last thirty-five days, the program can be used only by the teacher for evaluation purposes); and

d) Recorded programs may not be physically or electronically combined or merged to create teaching anthologies or compilations, and may not be altered from their original content.

VI. ONLINE AND DISTANCE LEARNING ACTIVITIES

Copyright laws and Fair Use principles also apply to Online and Distance Learning Courses. However, a newer law called the TEACH Act also applies to such courses, but for slightly different uses of copyrighted materials.

Traditional online course formats, such as Blackboard, often include posting copyrighted materials for students to use during the online course. Faculty or staff use of Blackboard or similar formats should ensure that the use of such material complies with Fair Use principles or is used with permission of the copyright owner.

The TEACH Act applies to secondary transmissions of a copyrighted work within a teaching performance. For example, when a professor's teaching performance is being recorded and subsequently transmitted online, and if that professor is also showing a movie during that performance, then the TEACH Act applies.

A. General Principles of the TEACH Act

1. The TEACH Act (§110(2) of the Copyright Act) extends the face-to-face teaching exemption to distance learning activities.

2. The TEACH Act allows faculty to use copyrighted materials during the act of teaching when the teaching performance is then transmitted via the Internet or video.

3. The TEACH Act only applies to works that an instructor would show or play during class. Any uploading of material for study purposes must otherwise comply with copyright laws, including fair use principles.

4. Provided that the requirements of the Act are followed, transmissions (via Internet or video) of teaching performances using copyrighted material may be made without obtaining permission from the copyright owner.

B. Guidelines for Distance Education Courses Under the TEACH Act

1. **The performance or display of copyrighted material must be:**

   a) A regular part of mediated instructional activity.

   b) Made by, at the direction of, or under the supervision of the instructor.

   c) Directly related and of material assistance to the content of the course.

2. **The following technological restraints must be in effect:**

   a) The content must be accessible only to those students who are enrolled in the course;

   b) The content must be accessible only for the duration of a class session;

   c) To the extent technologically possible, the content must be protected from further distribution; and

d) To the extent technologically possible, the content must not be subject to retention by students.

3. All material displayed must contain a notice similar to the following:

The materials on this course website are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated. The materials on this course website may be protected by copyright; any further use of this material may be in violation of federal copyright law.

4. Guidelines for complying with the TEACH Act:

a) Notify students that works used are subject to copyright protection.

b) Supervise the digital performance or display. Make it an integral part of your instructional activity.

c) Work with USF System Information Technology to limit access to the works.

d) Reading excerpts from books, playing an excerpt from a piece of music, showing a photograph or a still from a motion picture is generally acceptable.

e) Do NOT upload material such as textbooks, course packs or other resources typically purchased by students to review outside of the classroom unless permission has been received by the owner or such use otherwise complies with Fair Use principles.

f) Do NOT transmit or upload materials specifically marketed as distance education courses.

g) Do NOT use pirated works or works that you have reason to know were illegally made.

h) Do NOT play an entire motion picture or act out a performance of an entire play during a class that will then be transmitted. Only a reasonable and limited portion of these types of works can be used.

VII. COURSE PACKS AND COURSE RESERVES

A. Guidelines for Printed Course Packs and Course Reserves

1. Materials may be copied and placed in course packs or made available for course reserves when they are:
    - In the public domain; or
    - Used with permission from the copyright holder; or
    - Used under the provisions of a contract or license agreement, noting that agreements may differ from, and often take precedence over, what is allowed under copyright law; or
    - Used under the provision of Fair Use–faculty must consider the four part fair use test.

2. The Copyright Clearance Center (CCC) can grant you permission to use a wide number of materials for a fee. Faculty can contact the Copyright Clearance Center directly or their chosen printing shop for assistance.

B. Guidelines for Electronic Course Packs and Other Online Materials

1. Faculty and students may post or link to copyrighted materials on password protected course sites in compliance with copyright and fair use principles.

2. Prior to scanning and digitizing copyrighted materials, faculty should review University Libraries' holdings to determine if a pre-existing license for the content already exists. Similarly, instead of creating a digital copy of a work, where possible, faculty members are encouraged to provide links to the content owner's website, such as a news-service, or alternatively to a public domain site.

3. The faculty member must consider whether use of the work is fair use–such as a single, recent news article, or a few images; or whether permission is necessary from the copyright owner–such as a few chapters from a textbook. If permission is necessary to place a work in a print course pack, then it is necessary to place it on electronic reserve.

VIII. USE OF MATERIALS OBTAINED FROM THE INTERNET

General Guidelines

A. Copyright Law Applies. The general rule that copyright law protects all works "fixed in any medium" also applies to documents on the Internet and the World Wide Web. If you wish to reproduce Internet works, you must follow copyright law, be within fair use, and follow the guidelines above in the same manner as if the document were printed on paper.

B. Fair Use Applies. If you wish to make multiple copies of an Internet work or otherwise wish to use the work in a manner which falls outside the fair use exceptions outlined in these guidelines, you must contact the author of the Internet work and obtain reproduction permission from that individual.

C. **Exercise Caution.** Be especially careful of copyright/fair use principles when downloading material from the Internet. The material may have been placed on the Internet without the author's permission.

D. **Do Not Circumvent Access Control.** Except in very limited circumstances, it is a violation of law to circumvent an access control mechanism and use copyrighted material — even if the use would otherwise be fair.

E. **Do Not Violate USF System Computing Policy.** It is the responsibility of all USF System students, faculty and staff to use information technology and computer resources in a responsible, ethical and lawful manner. Any member of the USF System community who abuses these resources may have engaged in unacceptable conduct.

F. **Link to It**. Providing a link to a copyrighted work is not making a copy of that work, and therefore outside the bounds of copyright law. It is generally acceptable to point others to material posted on the Internet by providing a link to the website.

IX. LIBRARY CONSIDERATIONS

A. General Exemption

1. Under copyright laws, University Libraries may reproduce copyrighted works provided that the reproduction will not be used for any purpose other than private study, scholarship, or research. The copy of such work shall become the property of the Library.

2. Libraries may copy a published work for the purpose of replacing a copy that is damaged, deteriorating, lost, stolen, or if the existing format in which the work is stored has become obsolete.

3. Libraries may provide unsupervised reproducing equipment without subjecting the library or its employees to copyright infringement.

4. The Libraries may 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.

B. Course Reserves

1. The University Libraries support instruction with course reserves and other collection access services. The primary function of these services is to assure that students and teachers will have timely access to course-related library resources.

2. The Libraries may retain the right to refuse materials for reserve, or remove materials already on reserve, on the basis of law-related or administrative concerns.

3. The Libraries have permission from the Copyright Clearance Center (CCC) to use a wide number of materials for a fee. Please check with your librarian for specific procedures for using course reserves.

X. OBTAINING PERMISSION TO USE COPYRIGHTED MATERIAL

A. Generally

1. If an exemption (such as Fair Use, Face-to-Face teaching, or TEACH Act) is not clearly available, permission to use a copyrighted work must be obtained from the owner of the copyright holder. A request to use copyright material usually can be sent to the permission department of the publisher of the work. Assume four to six weeks for a request to be processed.

2. A standard permission request is attached – **Permission Request Form**

3. Written evidence of permission must be obtained. Such evidence should be kept by the academic department.

B. Journal Articles

The University Libraries may have certain rights under the Copyright Law to make copies from many journals. Before forwarding a request for an article to a journal's publisher, check with the appropriate library to see if your intended use is permissible.

C. Copyright Clearance Center (CCC)

The CCC is able to give permission to use a wide number of materials for a fee. Please consult with the University Library or contact the CCC at www.copyright.com for more information.

XI. ADDITIONAL RESOURCES ON COPYRIGHT AND FAIR USE

- **Guidelines for Classroom Copying.** These guidelines were prepared by the Authors League of America and the Association of American Publishers. http://www.publishers.org/main/Conferences/Conf_Pub/conf_Pub_01_03.htm

- **Guidelines for Educational Multimedia.** These guidelines were prepared by the Consortium of College and University Multimedia Centers. http://ccumc.org/node/210

- **USF Office of the General Counsel.** If you have any questions or would like advice on specific aspects of copyright law as it relates to your area of responsibility, please contact:

Office of the General Counsel
University of South Florida
4202 East Fowler Avenue, ADM 250
Tampa, FL 33620-6250
Phone: (813) 974-2131
Fax: (813) 974-5236
E-Mail: usflegal@admin.usf.edu

Authorized and signed by:

Steven D. Prevaux, General Counsel
Judy Genshaft, President

Copyright | Fair Use

One of the rights accorded to the owner of copyright is the right to reproduce or to authorize others to reproduce the work in copies or phonorecords. This right is subject to certain limitations found in sections 107 through 118 of the copyright law (title 17, U. S. Code). One of the more important limitations is the doctrine of "fair use." The doctrine of fair use has developed through a substantial number of court decisions over the years and has been codified in section 107 of the copyright law.

Section 107 contains a list of the various purposes for which the reproduction of a particular work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research. Section 107 also sets out four factors to be considered in determining whether or not a particular use is fair:

1. The purpose and character of the use, including whether such use is of 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
4. The effect of the use upon the potential market for, or value of, the copyrighted work

The distinction between fair use and infringement may be unclear and not easily defined. There is no specific number of words, lines, or notes that may safely be taken without permission. Acknowledging the source of the copyrighted material does not substitute for obtaining permission.

The 1961 *Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law* cites examples of activities that courts have regarded as fair use: "quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported."

Copyright protects the particular way authors have expressed themselves. It does not extend to any ideas, systems, or factual information conveyed in a work.

The safest course is always to get permission from the copyright owner before using copyrighted material. The Copyright Office cannot give this permission.

When it is impracticable to obtain permission, use of copyrighted material should be avoided unless the doctrine of fair use would clearly apply to the situation. The Copyright Office can neither determine if a certain use may be considered fair nor advise on possible copyright violations. If there is any doubt, it is advisable to consult an attorney.

FL-102, Reviewed November 2009

U.S. Copyright Office
101 Independence Avenue SE
Washington, DC 20559-6000
(202) 707-3000