

## MCWHERTER LIBRARY ELECTRONIC RESERVES POLICY

The copyright law of the United States (Title 17 of the United States Code) governs the reproduction and display of copyrighted works. The making of an electronic or paper copy of a copyrighted work by any means (photocopying, electronic reproduction, scanning, digitizing, etc.) constitutes reproduction that is governed by copyright law. This policy was adopted to ensure compliance with copyright law and applies to Electronic Reserves and materials otherwise reproduced and displayed in electronic form. All members of the U of M community are expected to comply with the copyright law and this policy.

The copyright principles that apply to use of copyrighted works in electronic environments are the same as those that apply to such use in paper environments. Any use of copyrighted course content that would require permission from the copyright owner when made available in paper format would likewise require the copyright owner's permission when made available in an electronic format.

The reproduction or copying of a work subject to copyright protection typically requires the permission of the copyright owner. However, the copyright law recognizes that in certain situations, copyrighted work may be reproduced without the copyright owner's consent. One such situation is where the doctrine of "fair use" applies.

Fair use is a longstanding doctrine, described in Section 107 of the Copyright Act, which recognizes the importance of accessing, using, and building upon copyrighted works in the context of teaching, research, and scholarship. The law establishes a zone of "fair use" protection for copying or disseminating copyrighted works without obtaining permission from the copyright owner under certain circumstances. The copyright statute provides a framework for deciding whether a particular use is a "fair" use. "Fair use" analysis, whether in the paper or electronic environment, includes, but is not limited to consideration of certain factors. To determine whether "fair use" might apply, the following four factors must be considered and weighed:

- Purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
- Nature of the copyrighted work
- Amount and substantiality of the portion used in relation to the copyrighted work as a whole
- Effect of the use upon the potential market for or value of the copyrighted work

No single factor – including nonprofit educational use – is determinative of whether a given use of electronic work is a fair use. The instructor must evaluate these factors, which are not exclusive, to determine if permission for a particular work is required for use as electronic course content, or whether the fair use doctrine is applicable. Careful consideration and completion of a [Fair Use Analysis Checklist](#) provided by the Reserve Room will assist in the determination.

Permission may be required for the use of copyrighted material as electronic course content even when such material is:

- available elsewhere on the internet;
- being used in a course for the first time, or;

- characterized for purposes of course use as optional, supplemental, or ancillary reading material, rather than as required, assigned, or recommended reading material.

The library staff will not scan or copy copyrighted materials for placement on electronic reserve without proper verification that the instructor has either:

- obtained the written permission of the copyright owner; or
- determined in good faith after reasonable inquiry, and with the benefit of resources made available by the University Libraries for these purposes, that the intended use qualifies as a fair use or other exempt or licensed use for which permission is not required.

In general, if permission and possible payment of royalties would be required to include the material in a printed course compilation, permission may also be required when making that material available in digital form as well.

Course reserves are to be used only as a supplement to assigned course texts and/or licensed course compilations. When readings are used as central course material in lieu of textbook, licensed course compilations may be required.

Course readings on electronic reserve must comprise only a small portion of the total assigned readings for any course.

A work can be used without obtaining permission when it is in the public domain, and therefore, not protected by intellectual property laws (copyright, trademark and patent). Copyrights are limited in term, therefore, expiration of the copyright term is one way a work enters the public domain. For a discussion on the term of a copyright, please see U.S. Copyright Office Circular 15a, <http://www.copyright.gov/circs/circ15a.html>. Works prepared by an officer or employee of the U.S. government as part of that person's official duties are not subject to copyright protection and are in the public domain. Additionally, works that have been dedicated to the public by the copyright holder fall within the public domain.

Course materials owned by the instructor such as syllabi, lecture notes, or exams may be placed on electronic reserve, as can government publications. Where University of Memphis has licenses to digital versions of copyrighted materials, permission need not be obtained from the copyright owner.

In compliance with copyright guidelines, the library will need to obtain permission for copyrighted materials when the material includes consumable works such as workbooks, standardized tests, exercises, answer sheets, forms, surveys and the like.

Whenever possible, it is preferable to link to materials already legally available online at another site, rather than scan or make a digital copy of the materials.

Copies of copyrighted works, regardless of their format, should include proper attribution and copyright notices. The following notice will be included with every reserve reproduction:

**NOTICE CONCERNING COPYRIGHT LAW**

**The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. University of Memphis strictly forbids any copying or distribution of E-Reserve materials for transmission to others. Unauthorized electronic transmission of reserve material may make a user liable for copyright infringement.**

All materials will be removed from electronic reserves at the end of the semester and may not be placed on the electronic reserve subsequent semesters; unless permission is obtained from the copyright owner or University of Memphis has licenses to the material.

As far as technology allows, access to electronic reserve should be limited to students enrolled in the course, the faculty teaching the course, or other individuals requiring access for purposes of conducting the course. Access for each course and is password-protected and such access will terminate when the students have completed the course. In order to ensure this, students must authenticate in order to access the electronic reserve system via the library webpage. Materials can be searched by the professor's name, department or course number.

#### **SUBMISSION GUIDELINES**

- A completed copy of the [Fair Use Analysis Checklist](#) must be submitted along with the [Reserve Room Materials Form](#), available at the Checkout/Reserves desk and/or at the University Libraries homepage.
- A complete bibliographic citation is required for all copyrighted materials.
  
- A copy of the copyright statement must accompany all electronic reserve requests. This information is often found on the back of the title page in books. Copyright statement for journal articles are usually located on the inside front cover of the journal.
  
- No more than 25% of course content can be placed on reserve(a chapter from a book; an article from a periodical or newspaper, a short story, short essay or short poem-whether or not from a collective work; a chart, graph, a diagram, drawing, cartoon or pictures from a book, periodical or newspaper.)
  
- Electronic files are accepted in the following formats:
  - Portable Document Format (pdf)
  - Microsoft Word (.doc)
  - JPEG (.jpg)
  
- Please submit your own photocopies of articles, chapters, etc., needed for your reserve list.
- Photocopies should be 8 1/2 x 11 on white paper only, legible, one-sided, and contain no black margins.
- Photocopied items should be of the best quality. Light copies and items with extremely small print do not scan well.
- Hole punched photocopies will not be accepted.
- Photocopies should be either landscape or portrait, not both within the same document.
- Handwritten items should be neatly printed in black ink. Originals always scan better than a photocopy.
- Any items longer than 50 pages will be scanned in parts (ex. Chapter 1 part A and part B) for ease of viewing.
- Photocopies that do not meet requirements may be returned.
  
- If an article is full text on a U of M database, a permalink to the article will be available on your reserve list. Click here to search for [Full Text Electronic Journals Available Through U of M Databases](#). **PLEASE NOTE:** When/if a publisher(s) ends a contract with a database vendor that particular content may be pulled from the database. When/if this happens to a publication that has been linked to from the library's E-reserves system, the article(s) may disappear from the database.

- **All materials will be taken off the e-Reserve system at the end of the semester. Materials needed for consecutive semesters will need written copyright permission from the copyright holder.**
- Your materials can be submitted to the Reserve Room manager ([rhawkins@memphis.edu](mailto:rhawkins@memphis.edu)) via e-mail in one of the aforementioned acceptable electronic file formats and your completed forms as word documents, or printed and sent through campus mail, or brought to the library's Check-out/ Reserves Desk.

Questions regarding these guidelines may be directed to the Reserve Room Manager at 678-4411.

Revised by Roy C. Hawkins, Jr. for U of M McWherter Library Reserve Room November 2012