



University of Northwestern Ohio

Library Copyright Policy

September 1, 2014

General Statement

The library at the University of Northwestern Ohio houses many materials that may be used for both educational and personal entertainment purposes. This archive includes but is not limited to works of fact and fiction, textbooks, professional journals, articles, pictures, electronic databases, and audio and video productions. All the materials in the library, in addition to those stored electronically, fall under the protection of copyright law regardless of whether or not the materials contain specific copyright statements. This protection extends to any personal items brought into the library by any patron. As such, students, faculty, staff, and other library patrons must use due diligence in applying copyright law to determine the legality of producing any copies of these materials for educational use or for personal enjoyment. As a patron of the university library, students, faculty, staff, and other library patrons are ultimately responsible for ensuring that all copies of materials produced are in compliance with current copyright laws and regulations.

This policy is intended to create a framework of understanding with suggested best practices in the form of guidelines so that copyright law may be applied in practice when judging the legalities of the copying and use of library and personal materials. This framework and the guidelines contained within are structured around copyright law as it is applied to printed materials and around the TEACH Act (Technology, Education and Copyright Harmonization Act) and the DMCA (Digital Millennium Copyright Act), both of which further define copyright law as it applies to the making and storing of digital copies of materials that may in turn be transmitted electronically over the Internet. The guidelines contained within this policy do not constitute legal advice and therefore should be used as general guidance. When in doubt, consult a practicing copyright attorney for legal advice.

All patrons of the library, including the students, faculty and staff of the University, bear the sole responsibility for any claim of copyright infringement. The University will take appropriate disciplinary action against any student, faculty or staff member, or other library patron who violates this policy. Conduct in violation of the principles set forth within this policy may also be subject to criminal or legal action instigated by copyright holders and law enforcement agencies.

Applicability

This policy applies to all materials housed within the library, personal items brought in by library patrons, materials stored electronically in university systems, or materials stored in electronic database subscription services. Please consult the university librarians if in doubt about allowed usage of copies of copyrighted materials.

General Library Policies

Reserves – Materials placed on reserve by faculty for use by their students fall into two broad categories; original materials and photocopied materials. Any materials placed on reserve in the library by faculty, whether the materials are provided by faculty or by the library, are solely for academic use by students and must be in the legal possession of the library or the faculty member. Copyright responsibilities fall upon the faculty member making the reserve request should photocopied materials be placed on reserve. Copies of complete works or substantial portions of works will not be copied and placed on reserve without requisite copyright notices unless the Rules of Fair Use can be applied.

Electronic Reserves – Any electronic materials, whether scanned from printed or originally electronic, placed on reserve by faculty in the library for academic use by students must be in the legal possession of the library or the faculty member. Access to these materials will be restricted to only those students currently enrolled in course of the faculty member making the reserve request. When the course ends, these materials will be removed from use. Complete works or substantial portions of works will not be scanned electronically and placed on electronic reserve without requisite copyright notices unless the Rules of Fair Use can be applied.

Interlibrary Loan Copies – Copyright law allows a library to make a single copy, made from the collection of another library or archive, of no more than one article or other contribution to a copyrighted collection or periodical issue, or a copy of a small part of any other copyrighted work if the copy is not to be used for any purpose other than private study, scholarship, or research.

Copyright Notices and Citations – All copied materials, whether in printed form or electronic, must be cited or attributed and must display the required copyright notices where required, unless used solely for personal use.

Copyright Permission – If written permission was not received from the copyright holder for the use of any copied copyrighted material, the rules of Fair Use may apply. Refer to the Rules of Fair Use guidelines below for the proper application of this rule.

Educational or Commercial Use of Copies – Copies of materials, whether in printed or electronic form, should only be made for educational use. Copies made for commercial or personal financial gain or that denies expected payments for the work to the copyright holder is a violation of copyright law.

Photocopying, Scanning, and Printing – All photocopying, printing, scanning to electronic files, copying to personal or other media, or other distribution to others of any printed or electronic materials must be done in compliance with all applicable copyright laws.

Unsupervised Copying and Printing – Students, faculty and staff, and other library patrons making their own copies using library photocopiers or printers are personally liable for any copyright infringements. Therefore, the following notice is posted on each library printer and photocopier:

NOTICE: The U.S. Copyright Law (Title 17 U.S. Code) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.

Charges for Copying and Printing – All printing done in the university library is charged at applicable university rates through the print management system. All photocopied copies must be paid for in advance at applicable university rates.

Library Right of Refusal of Copying and Printing – University librarians and staff may refuse a copy or print request if in their opinion copyright law or this policy is being violated by fulfilling the request. In this situation it is the responsibility of the student, faculty or staff member, or other library patron to provide evidence of permission for making copies or to have completed a Fair Use Checklist that favors the production of copies of copyrighted material.

Copyleft – Search for content that is governed under the Creative Commons License, the General Public License (GNU), or similar copyleft licensing. There are many materials that are available and can freely be copied under these licensing schemes. The authors and copyright holders have agreed to make the content freely available for use in educational and not-for-profit settings through the use of simple citations and/or copyright notices so that they may be freely copied without consequence.

Public Domain – Materials that have never been protected by copyright or that have expired copyright are considered to be in the public domain. It should be noted that some materials may display a copyright notice which may indeed be expired. It is the responsibility of the student, faculty or staff member, or other library patron to determine the expiration of copyright before making a public domain judgment. Materials deemed to be in the public domain may be freely copied without consequence.

Guidelines

Because copyright law is complex and many times seemingly vague or overly restrictive, UNOH is providing the following guidelines and suggested best practices for applying copyright law. These are broken into three categories: 1) Printed Materials; 2) Electronic Materials; and 3) the Rules of Fair Use. Library patrons should make best efforts in applying categories 1 and/or 2 in all cases. However, if permission cannot be obtained from the copyright holder, it is possible that the Rules of Fair Use may apply.

1) PRINTED MATERIALS

These guidelines only apply to printed copies distributed to students or digital materials presented to students within a classroom. Therefore, these guidelines do not apply to digital copies posted online in other electronic distribution systems. Please refer to the “Electronic materials” section for guidelines on their use.

PRINTED or PHOTOCOPIED COPIES

- Printed copies of PowerPoint slides, articles, and other handouts should include proper citations in

<ul style="list-style-type: none"> • PowerPoint Slides • Articles • Books and Textbooks • Diagrams and Cartoons • Charts and Graphs 	<p>addition to any copyright notices required by the author or publisher.</p> <ul style="list-style-type: none"> • Single copies may be made for academic or research use. Copies should be restricted to a single chapter, a single article, a single short story or essay, or a single diagram or chart as prescribed under the Rules of Fair Use. • Multiple copies may be made for classroom use but the copies should be restricted to only one copy per student within a course. Copies should be restricted to a single chapter, a single article, a single short story or essay, or a single diagram or chart as prescribed under the Rules of Fair Use. • Consumables such as workbooks, practice sets, and standardized tests should not be copied in whole. • Copies should be restricted to academic or personal uses and therefore should not be shared with others who may be required by copyright law to purchase copies for their own use.
<p>PERMISSION TO COPY</p>	<ul style="list-style-type: none"> • Whenever possible, seek out written permission to use any ancillary materials. This may include permission granted through e-mail messages. <ul style="list-style-type: none"> ○ When requesting permission, be specific about the materials being used. Many owners may allow for portions of a work to be used but not the entire work.

<p>2) ELECTRONIC MATERIALS</p>	
<p>These guidelines only apply to electronic materials that will be posted to electronic media distribution systems over the Internet.</p>	
<p>SEEK & DOCUMENT PERMISSION</p>	<ul style="list-style-type: none"> • Whenever possible, seek out written permission to use any digital materials, direct or copied. This may include permission granted through e-mail messages. <ul style="list-style-type: none"> ○ When requesting permission, be specific about the materials being used. As with printed materials, many owners may allow for portions of a work to be used but not the entire work. In the case of DVD movies, request permission to use a specific 10-minute segment rather than the whole DVD.
<p>DO NOT CIRCUMVENT</p>	<ul style="list-style-type: none"> • Under no circumstances, even within the terms of

COPYRIGHT PROTECTION	fair use, should software copyright protection schemes be circumvented. Under copyright law (specifically DMCA), no one is allowed to circumvent such protections (regardless of ease of doing so) then subsequently use the material for classes.
CONSULT LIBRARY	<ul style="list-style-type: none"> • Check with the library (electronic reserves, subscriptions, or databases) for suitable alternative content.

3) RULES OF FAIR USE

When permission cannot be obtained for the use of printed or electronic materials, the rules of fair use may come into play. Copyright law provide that in limited circumstances the fair use of a copyrighted work for certain purposes, including teaching, scholarship and research, is not a copyright infringement. The law identifies four factors to be considered in determining whether use of a work is “fair use.” UNOH provides the following guidelines as appropriate applications of those four fair use factors. When in doubt, consult a practicing copyright attorney for legal advice.

“(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;”¹

UNOH is a not for profit institution of higher education and is therefore using all materials for the education of our students. However, no course materials should ever be used in a public setting as this constitutes a public performance.

Work that is for nonprofit educational use favors fair use.

- **An instructor or student may play a commercial DVD movie in its entirety in a classroom setting to others enrolled in the course. This use serves an educational purpose. However, this same DVD movie cannot be played in front of a gathering of people when they are invited to attend for entertainment purposes.**

“(2) the nature of the copyrighted work;”¹

The nature of the copyrighted work is an important determining factor in applying the rules of fair use. If a work is published and is factual in nature, the rules of fair use may be applied in determining whether or not the work may be used within an educational setting. If a work is unpublished or is fictional or imaginative in nature, the rules of fair use do not favor the use of the work unless permission is obtained from the copyright owner or the legal representatives of the author’s estate.

Work that is factual favors fair use.

- An instructor may copy and distribute to their students in a classroom an article that contains factual research results contained within a professional journal from a publisher that no longer exists.
- An instructor may not copy and distribute to students the entirety of an out of print fictional novel. However, portions of the novel may still be used should the other three rules of fair use apply.

“(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole;”¹

As a general guideline, UNOH suggests that “amount” should be limited to 10% or less of any one work and that “substantiality” should be limited to material that is necessary to illustrate an educational point.

Using a small portion of the work favors fair use.

- For a 90 minute DVD movie, no more than a 9-minute segment may be copied and posted electronically. In regards to substantiality, only use a 5-minute segment if that is all that is needed illustrate a point.
- For a periodic professional journal with 12 published articles, no more than 1 article may be copied and posted electronically unless the pages of the article total more than 10% of all the pages of the journal. In regards to substantiality, use only the portion of the article, an illustration or table for example, rather than the whole article.
- For a 12 chapter textbook, no more than 1 chapter may be copied and posted electronically.

“and (4) the effect of the use upon the potential market for or value of the copyrighted work.”¹

UNOH does not promote or condone the use of copied course materials that are given to students for use in the classroom or online that circumvents the purchase or royalty process.

The following factors favor fair use:

The author or publisher is not denied expected payments for the work

One or a few copies are made for student use

The work will only be used one time in the classroom

Will only be used by students in the classroom

- **An instructor teaches a course where students are required to purchase four novels. In this situation, an instructor is not allowed to make copies, either on paper or electronically, of their personally owned novels and then distribute those copies to their students.**
- **A student does not purchase a textbook required for a course. Another student is not allowed to make a complete copy of their textbook then provide that copy to the first student.**
- **A student prepares a compare and contrast research paper to illustrate a point using three fictional novels. The student may make copies of specific pages being referenced within the research paper to be attached to the paper.**

***Application of the Rules of Fair Use**

The following checklist may be used to determine if a copyrighted work may be used under the rules of fair use without having to obtain permission of the copyright owner.

¹ Copyright Law of the United States | U.S. Copyright Office. (2014, August 1). Retrieved August 1, 2014, from <http://www.copyright.gov/title17/>

Fair Use Checklist

Course Code and Title: _____

Venue: Face-to-Face Online in LMS Online outside of LMS Other: _____

Instructional Material Title: _____

Portion Used (e.g. pages, minutes): _____

Prepared by: _____ Date: _____

Purpose

Favoring Fair Use

- Teaching (including multiple copies for classroom use)
- Research / scholarship
- Criticism / parody
- Comment / news reporting
- Transformative or productive use (changes the work for new utility)
- Restricted access (to students or other appropriate group)

Opposing Fair Use

- Commercial activity
- Profiting from the use
- Entertainment
- Bad-faith behavior
- Denying credit to original author

Use this form only if you did due diligence to obtain copyright permission first.

1. Fill out form.
2. Majority favoring? Material may be used.
3. Majority opposing? Do not use material.
4. A tie? Reevaluate material used or do not use the material.
5. If changes are made to usage of materials, including a venue change, use a new fair use checklist.
6. Keep this copy on file for future reference.

Nature

Favoring Fair Use

- Published work
- Factual or nonfiction based
- Important to favored education objectives

Opposing Fair Use

- Unpublished work
- Highly creative work (art, music, novels, films, plays)
- Fiction

Amount

Favoring Fair Use

- Small Quantity (10% or less)
- Portion used is not central or significant to entire work
- Amount is appropriate for favored purpose

Opposing Fair use

- Large portion or whole work used
- Portion used is central to or "heart of the work"

Effect

Favoring Fair Use

- User owns lawfully purchased or acquired copy of original work
- One or few copies made
- No significant effect on the market or potential market for copyrighted work
- No similar product marketed by the copyright holder
- Lack of licensing mechanism

Opposing Fair Use

- Could replace sale of copyrighted work
- Significantly impairs market or potential market for copyrighted work or derivative
- Reasonably available licensing mechanism for use of the copyrighted work
- Affordable permission available for using work
- Numerous copies made
- You made it accessible on the Web or in other public forum
- Repeated or long-term use

Overall Favoring Fair Use

Overall Opposing Fair Use



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