

Marquette University
Electronic Reserve
Copyright Best Practices

Embodied in Title 17 of the United States Code, copyright law is intended to "... promote the Progress of Science and useful Arts, by securing for a limited Time to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." As an institution whose primary purpose is the creation, discovery, and dissemination of knowledge, Marquette University is committed to complying with all applicable intellectual property laws, and it expects all members of the university community to respect copyright. Within its mission of teaching, learning, and research, Marquette University adheres to U.S. Copyright Laws and expects members of the university community to respect copyright. The University's commitment includes supporting the full exercise of the rights accorded to users of copyrighted works under the "Fair Use" provision of federal copyright law.

Copyright provides creators of "original works of authorship" with the exclusive rights to copy, reproduce, distribute, display, and perform their works. The law governs the making of photocopies or other reproductions of copyrighted material, including the making of all digital copies, e.g., by scanning, digitizing, or ripping.

Marquette University provides the following copyright guidelines to aid in the understanding of copyright as it relates to the campus class reserves system.

The same copyright and fair use principles that apply to educational use of copyrighted works in printed form apply equally to their use in digital form. Making an electronic copy of a copyrighted work by any means is considered to be a reproduction and is subject to applicable copyright law, including the fair use doctrine, which is set forth below.

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 the following factors

- the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- the nature of the copyrighted work;
- the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- the effect of the use upon the potential market for or value of the copyrighted work.

The Library will 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.

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.

No one should post digital course content consisting of copyrighted material without first either:

- obtaining the permission of the copyright owner; or
- determining in good faith after reasonable inquiry, and with the benefit of resources made available by the University 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.

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 a 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.

Whenever possible, it is preferable to link to materials already legally available online through the Raynor Memorial Library web site or another site, rather than scanning and posting a digital copy.

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. Marquette University 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.

As far as technology allows, access to copyrighted digital course content 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 should be terminated when students have completed the course.

Copyright infringement is a violation of university policy as covered under the Acceptable Use of E-Resources Policy at:
<http://www.marquette.edu/its/strategy/aup.shtml>.

Students seeking information about how to make or acquire personal copies for purposes of private study, scholarship, or research should contact the Library for guidance if the following guidelines are not clear:

- Students may download and print a copy of the electronic reserve material for the course(s) they are enrolled in or make a copy of a few pages of a book or journal article for the limited purpose of private study, scholarship or research. Under no circumstances may a student download and print a copy of the electronic reserve material for a course he or she is not enrolled in.
- A student may not reproduce an entire book or substantial portions thereof, an entire chapter of a book, or a journal without permission from the copyright owner. Many such materials are already available by license online through the Raynor Memorial Library.
- Students should not share or distribute the electronic reserve or copyrighted materials with other students, friends, family, or business colleagues, even if the recipient is a student enrolled in the same course.
- Students may not use the electronic reserve material or copyrighted materials they have been given access to for commercial purposes or where such use would have an indirect relation to a commercial activity. Materials provided to the students via electronic reserves should not be sold to or exchanged with anyone. Selling or exchanging such materials via online bookstores, online auction sites, coursebook exchange programs, classmates, or individuals violates copyright law.
- If a student wishes to disseminate copyrighted materials to multiple recipients, the student should consult the Library staff. Normally, the student or the Library will be required to obtain permission from the copyright holder by contacting the copyright owner directly, the publisher or a collective rights organization such as a the Copyright Clearance Center, Inc (CCC). No student should engage in such widespread distribution without first obtaining permission.