

ECC Copyright Guidelines

What is copyright?

According to the US Copyright office (United States Copyright Office, 2012a), Copyright is a form of protection provided by the laws of the United States to the authors of “original works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. Section 106 of the 1976 Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

- reproduce the work in copies or phonorecords
- prepare derivative works based upon the work
- distribute copies or phonorecords of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending
- perform the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works
- display the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work
- perform the work publicly (in the case of sound recordings*) by means of a digital audio transmission

Only tangible works can be copyrighted. Verbal presentations that are not recorded or written down cannot be copyrighted. (University of Maryland University College, 2011). The US Copyright office provides 3 fundamental requirements for something to be copyrighted.

Works must be:

- **Fixed in some way** – written down or recorded
- **Original** – though adaptations *may* be eligible for copyright protection
- **Creative** – there must be some creative difference between related works

Works in the public domain **cannot** be copyrighted.

Government works including judicial opinions, ordinances, and rulings **cannot** be copyrighted.

Ideas, facts, names, and slogans **cannot** be copyrighted, though they may be protected under trademark law (University of Maryland University College, 2011)

Fair use

Fair use generally refers to lawful copying by others of copyrighted works. Fair use is a limitation on the rights of copyright holders. Exemptions are provided to the copyholders rights to encourage certain creative or educational uses of copy written materials such as criticism, scholarship, comment, and research (United States Copyright office, 2012b). [More about Fair Use.](#)

Fair use is determined by 4 factors:

1. The purpose and character of the use
 - Is the use for **educational** or non-profit activities? These are more likely to enjoy fair use protection (NOLO, 2010).
2. The nature of the copyrighted work
 - Is the work out of print? If so, it is more likely to be considered fair use.
 - Factual works are more likely to enjoy fair use protection than novels, poems, or plays (NOLO, 2010).
3. The amount and substantiality of the portion used
 - The less you use the more likely it would be considered fair use.
 - If your use contains the core of the work, it may not be considered fair use (NOLO, 2010)
4. The effect of the use on the potential market for the work
 - Is this a derivative work in question? If so, how much does it differ from the original?
 - The more it differs, the more likely the new work will be seen as fair use.

Fair use recommendations

Academic or educational applications of fair use must meet tests for brevity and spontaneity (U.S. Copyright Office, 2009):

- Brevity refers to the amount that is copied.
- Spontaneity refers to the frequency of use.

The use of copied materials should follow closely the time of the copying. Repeated use may fall outside fair use. Copied materials should only be used for one course at a time.

ECC recommends that when copying, apply the following guidelines:

1. Copying is limited to a single chapter of a book of 10 or fewer chapters or 10% of a book with more than 10 chapters
2. Copying is limited to a single article from a print journal
3. Copying is limited to a single story, essay, or poem from an anthology

Do not copy in order to avoid purchasing the materials.

You must attempt to obtain permission from the copyright holder if your intended use falls outside the parameters discussed here.

Course reserves

The ECC Libraries attempt to provide textbooks and other materials on course reserve. Instructors are encouraged to place copies of their textbooks on course reserve ([Course Reserve submission form](#)).

Students can use these materials in the library. In many cases the libraries attempt to obtain copies of high-demand text-books for students to use (especially in the beginning of the semester). **This is not intended as a replacement for purchasing those texts.**

1. Course reserve materials are intended for limited, in-library use and are not to be systematically copied to avoid purchasing required materials.
2. Articles obtained via inter library loan may not be used as course reserves or duplicated.
Contact the library about acquiring the materials you need.
3. Workbooks or other consumable materials may not be placed on course reserve.

Help for faculty

How do I submit reserves?

- Complete the linked form and bring your materials to the circulation desk at the library.

What can be placed on reserve?

- Books and media owned by the ECC libraries.
- Scholarly articles or excerpts which the library already owns.
- Materials that you own, such as textbooks.
 - Please identify your items so we may return them.
 - Your items will be labelled and barcoded by the library staff.

Tips and suggestions

- The mode of publication is immaterial in determining copyright or fair use. Digital media is protected under the same law.
- The internet is not public domain. Copyrighted and uncopyrighted materials can be found online.
- Always cite your sources.
- Ask for permission to copy materials from the copyright holder whenever practical.
- Determining fair use is not an exact science. Apply the guidelines stated above in each case.

Resources

NOLO. (2010). *The 'fair use' rule: When use of copyrighted material is acceptable*. Retrieved from <http://www.nolo.com/legal-encyclopedia/article-30100.html>

United States Copyright Office. (2012a). *Copyright basics*. (Circular 1). Retrieved from <http://www.copyright.gov/circs/circ01.pdf>

United States Copyright Office. (2012b). *Fair use*. (Circular FL-102). Retrieved from <http://www.copyright.gov/fls/fl102.html>

United States Copyright Office. (2009). *Reproduction of copyrighted works by educators and librarians*. (Circular 21). Retrieved from <http://www.copyright.gov/circs/circ21.pdf>

University of Maryland University College. (2011). *Copyright and Fair Use in the UMUC Online or Face-to-Face Classroom*. Retrieved from <http://www.umuc.edu/library/libhow/copyright.cfm>