Copyright Guidelines for Reserves

Guidelines for Making Materials Available Through Electronic Course Reserves

As an institution devoted to the creation, discovery, and dissemination of knowledge to serve the public, the University of Maryland Libraries are committed to complying with all applicable laws regarding intellectual property. That commitment includes the full exercise of the rights accorded to users of copyrighted works under the "Fair-Use" provision of federal copyright law. The University of Maryland Libraries also respect the rights of the creators of intellectual property and always execute due diligence in respecting those rights. It therefore is the policy of the University of Maryland Libraries to facilitate the exercise in good faith of full Fair-Use rights by faculty, librarians, and staff, in furtherance of their teaching, research, and service activities.

The following electronic reserves guidelines have been developed in support of this philosophy to making materials available through electronic course reserves.

1. **Prerequisites to posting materials on e-reserve for a course.** University Libraries will make materials available through a course e-reserve only at the request of the instructor. The materials should be related to the educational goals of the course. Either the University or the instructor must own a lawful copy of the materials to be included in the course e-reserve.

2. **Access.** Access to e-reserves for a particular course is limited to students enrolled in that course, the instructor and a course administrator through a system of authentication. Students are not charged to access the course e-reserves.

3. **What materials may be posted.** Materials may be made available through electronic reserves consistent with copyright law; e.g., when
   - copyright in the materials is owned by the instructor (e.g., course syllabi, reading lists, lectures) or the University (works required to be prepared under sponsored research agreements, University committee reports); or
   - the materials have entered the public domain ([When Works Enter the Public Domain](http://www.lib.umd.edu/PUBSERV/RESERVE/MCK-R/copyright.html#publicdomain)) or are not protected by copyright (e.g. works created by federal government employees in the scope of their employment); or
   - the owner of copyright has given permission for the materials to be made available through e-reserves; or
   - the materials are made available under a license that authorizes the University to
make them available through e-reserves either by linking or copying and posting the material on a course Web site; or
- use of the materials qualifies as a "fair use" under copyright law.

4. **Fair use.** The instructor should make an initial assessment whether use of particular material qualifies as a fair use. Staff of University Libraries and/or the Legal Office are available to assist. If fair use does not apply and a third party holds copyright in the material, permission should be obtained before posting the materials to the course e-reserves.

The fair use determination requires consideration of 4 factors: the purpose of the use, the nature of the material, the amount of the material to be posted, and the effect on the market of posting the material in e-reserves. A brief discussion of each factor follows along with a form to record the assessment.

- **Purpose of the Use.** This factor will weigh in favor of a finding of fair use provided the material to be posted serves specific educational goals for the course and students are not charged a fee to access the materials.
- **Nature of the Material.** This factor is more likely to weigh in favor of finding a fair use when the material is predominantly factual in nature (e.g., scientific articles) and/or is published and is more likely to tip against a finding of fair use when the material is largely creative in nature (e.g., short stories, poems, music, etc.) or is not published. Consumable materials such as workbooks and pre-packaged lab books may not be posted on a course e-reserve.
- **Amount of Material.** This factor tips in favor of fair use when less than the entire work is reproduced for the course e-reserve and may tip against fair use when an entire work is reproduced. For example, posting limited portions of a larger work (an article or two from a journal, a chapter from a book, several illustrations or poems from a collection, or selections from a musical work) are generally permissible. Entire books or journals and entire performances of operas and similar performances should not be posted.
- **Effect on the Market of Posting Material.** If the first three factors weigh in favor of fair use and the original material is out of print or otherwise not available, the copyright owner cannot be located, or there is no established market or mechanism for obtaining permission, this factor will weigh in favor of fair use. If the first three factors weigh against fair use, and there is an established market or mechanism for obtaining copyright permission, this factor is likely to tip against a finding of fair use.

Images should always be limited to "thumbnails."

The University Libraries reserve the right to refuse to post materials it believes do not comply with copyright law.

5. **Posting Requirements.** The following copyright information should be included in each course e-reserve:
Warning. Users should view the following notice before accessing the course e-reserve:

NOTICE: The materials provided in this E-reserve may be protected by copyright law. (Title 17 US Code) You may print a copy of course e-reserve materials for your personal study, reading, research, or education. Reproducing, distributing, modifying and/or making derivative works based on the materials posted to this e-reserve for any other purposes may be an infringement of the owner's copyright and subject you to civil and criminal liability as well as potential action by the University.

Attributions. The following notices will be included with each posting of particular material:

- When the original work from which the material being posted includes a copyright notice, that copyright notice will be included with the material posted on e-reserve. The following format may be used: "The work from which this [article, photograph, etc.] is made includes the following notice of copyright: insert." and
- Appropriate bibliographic information for the particular material.

6. Removal of Materials. The University will delete all materials on course e-reserves at the conclusion of the course. A copy of the materials may be retained for students who need continued access to complete the course.

7. When Permission is Required. Permission of the copyright owner will be required to post repeatedly the same materials for the same course and instructor. Such repeated postings will not be considered a fair use. University Libraries will work with the instructor to obtain permissions. The copyright owner may require the payment of a royalty to post the material.

For assistance, contact fill in library information. For more information about fair use, visit the Stanford University Libraries Web site on Fair Use or the Copyright Management Center for Indiana University-Purdue University Indianapolis.