

## The Copyright Policy

This Copyright policy serves the dual aims of stating the University of Rochester's commitment to upholding the principles of intellectual property as embodied in U.S. copyright law, and of protecting the rights of its faculty and to make appropriate and limited use of copyrighted works for legitimate educational purposes. This policy applies to all University personnel, including faculty and staff and students, who seek to make use of copyrighted works, whether in print, electronic or other form, in performing teaching or other University responsibilities.

Copyright law generally forbids a person from making certain uses (e.g., reproduction, distribution, performance and display) of a copyrighted work without the owner's permission. The law, however, permits limited use of copyrighted works for teaching, scholarship and research purposes, under principles of "fair use." If a use qualifies as fair use, the copyright owner's permission is not needed. Given both the importance of complying with federal copyright law and the difficulty of determining fair use, this document provides guidance for the use of others' work as well as links to copyright and fair use resources.

It is University policy that works that are subject to copyright protection should only be used with the permission of the copyright owner, unless the use meets the test of Fair Use, or some other exception to the copyright law applies.

### A. Determining if there is Copyright Protection

For purposes of this policy, copyrighted works and materials include all audio visual, electronic, and printed works and materials under copyright protection. Some materials are not subject to copyright protection, including:

- works that lack originality (the phone book);
- freeware;
- US Government works;
- facts;
- ideas, procedures, concepts, principles or discoveries; and
- works in the public domain, including works with copyrights that have expired (generally published before 1923). Since a copyright notice is no longer required, the absence of the ©, especially for works published after 1978, does not necessarily mean the work is in the public domain.

If in doubt, it is best to assume that copyright in a work is owned by someone, and thus, subject to copyright protection.

## **B. Fair Use**

The concept of Fair Use is embodied in section 107 of the copyright law. This law provides that certain limited use of copyrighted materials for such purposes as teaching, criticism, commentary, reporting, scholarship and research is not infringement of copyright. The law sets forth four factors to be considered when making a determination of fair use:

- 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 (e.g., factual or creative works);
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole;
- The effect of the use upon the potential market for, or value of, the copyrighted work.

These four factors are fact specific, often difficult to apply, and highly subjective. A proper review using these factors requires making several judgments in the course of "weighing" and "balancing" many facts. The Fair Use Analysis Worksheet contains information to help with this analysis.

## **C. Course Reserves Procedures**

Materials may be placed on reserve through the University libraries, only in accordance with this policy. Faculty members, instructors or other authorized personnel should carefully review any copyrighted material to be used and determine whether they need to seek permission from the copyright owner. Materials will not be put on course reserves without the copyright owner's permission unless the fair use factors are met, or unless some other legal exception to the permission requirement applies.

The following rules also apply:

- All use of materials placed on electronic reserves will be at the initiative of faculty solely for the non-commercial, educational use of students.
- Materials to be copied or scanned for electronic reserves will be in legal possession by the library or the faculty member (by purchase, license, fair use, etc.) or some other unit of the University.
- There will be no charge for access. The charge for copies made by students will be limited to the nominal cost of photocopies or laser prints.
- Any copyright notice on the original material must be included in the material copied or scanned. Appropriate citations and attributions to source must also be included.
- When possible links to sites where material already is legally available (e.g., article databases) will be used instead of scanning or making a digital copy.

- Access will be limited to the instructors and students registered for the course and will be available via a course reserve system only.
- Instructor and student access to the electronic files ceases at the end of the course period.

To the extent applicable and feasible, use of copyrighted materials on class web pages, in coursepacks, or otherwise outside the course reserve system should follow the above rules.

#### **D. Other Uses without Permission**

While Fair Use (section 107) is probably the most widely used exception to seeking permission for uses of copyrighted works, especially in the university environment, there are other exceptions in the copyright law, including [section 108](#) which applies to reproduction by libraries and archives, and [section 110](#) which allows performance or display of copyrighted works in "face-to-face" teaching activities. There are also specific rules for music ([section 107](#), [section 112](#), [section 114](#), and [section 115](#)) and works of visual art ([section 113](#)).

#### **E. Obtaining Permission**

If a faculty member or instructor determines that neither Fair Use nor any other copyright exception applies, permission must be sought from the copyright owner for each specific use (unless a blanket permission has been secured).

Persons wishing to procure their own permissions may apply directly to the copyright owner or through the [Copyright Clearance Center](#). Complete and accurate information will facilitate any request and should include the owner of the copyright (consult the copyright page and/or the acknowledgment page), the address of the publisher or author, a complete bibliographic citation of the material to be used (including title, author and/or editor, copyright or publication date, volume and/or issue and/or edition of the publication, chapter or article title, and the exact page numbers of the material to be used), the number of copies to be made, and the exact nature and purpose of the intended use.

In all cases, it is the responsibility of the faculty member or his or her department to pay for permission fees where they are required.

Questions about copyright, Fair Use, or this policy may be addressed to the Office of Counsel or the staff at the University of Rochester Libraries.

Approved by Ralph W. Kuncl, Provost & Executive Vice President, 11/5/09  
*As reviewed and approved by University Counsel and reviewed and approved by Faculty Senate Executive Committee, 2009; this policy is a revision of the 12/21/98 University Copyright policy.*