University of Puget Sound

Compliance with Copyright Laws and Fair Use

This policy affirms the University of Puget Sound’s commitment to comply with United States law pertaining to copyright as expressed in Article I, Section 8 of the U.S. Constitution and codified in various laws; to respect faithfully the property rights of authors and their assignees; to education members of the campus community about copyright law and rights and responsibilities under that law. The University also recognizes and encourages fair use of materials for purposes of teaching, research, scholarship, and commentary, as set forth in the copyright laws of the United States. The appendices to this policy include a variety of checklists and tools by which faculty, staff, and students can educate themselves about the requirements of fair use and copyright law and ensure their own compliance with these provisions (add an appendix which includes existing library policies, checklists for Fair Use & Teach Act, permission form for using student work, viewing films on campus, additional resources, etc.)

Copyright Ownership

Notwithstanding the provisions of the Copyright Act governing works made for hire, it is the policy of the University of Puget Sound that copyrightable works created by the faculty and students of the University in the course of their pursuits as scholars (including textbooks, scholarly monographs, trade publications, maps, charts, articles in popular magazines and newspapers, novels, nonfiction works, supporting materials, artistic works, and like works) are owned by their creator(s) and that any revenue derived from their work likewise belongs to the creator(s). Copyright in course materials, syllabi, lab manuals, and other materials created primarily for use in connection with teaching activities in the University shall, in most cases, also be owned by their creators, subject to the right of the University to use, adapt, and create derivative works from, such materials under a perpetual and royalty-free license. In the case of works related primarily to administrative functions of the University, and other works specifically created at the request and under the direction of the University by faculty, staff, and students within the scope of their paid responsibilities, copyright shall be owned by the University as works made for hire.

Faculty, staff, and students are responsible for understanding these policies and shall be accountable for actions that willfully disregard them. In the event of a lawsuit arising out of materials subject to these policies, the University will assist in defending members of the community who have demonstrated a good faith effort to comply with the law and these policies.

Note: Derived from Grinnell College’s Copyright Policy
http://www.lib.grinnell.edu/research/copyright.pdf
For any reuse or distribution, see license terms of Grinnell’s policy found on page 1.
Appendices

- Appendix A: Teach Act Checklist
- Appendix B: Fair Use Checklist
- Appendix C: Guidelines for posting materials in a course management system
- Appendix D: Library Reserve Guidelines
- Appendix E: Copyright Ownership Statement for Faculty
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Appendix A: TEACH Act Checklist

Source: Copyright Management Center, Indiana University-Purdue University, Indianapolis: http://www.copyright.iupui.edu/teachchecklistprint.pdf

Checklist for Compliance with the TEACH Act
Name: ___________________ Date: ____________
Project: __________________________
Institution: ___________________ Prepared by: __________________________

TEACH Act requirements that will likely fall within the duty of the Instructor:
1 The work to be transmitted may be any of the following:
   □ A performance of a non-dramatic literary work; or
   □ A performance of a non-dramatic musical work; or
   □ A performance of any other work, including dramatic works and audiovisual works, but only in "reasonable and limited portions"; or
   □ A display in an amount comparable to that which is typically displayed in the course of a live classroom session.

2 The work to be transmitted may not be any of the following:
   □ Marketed primarily for performance or display as part of a digitally transmitted mediated instructional activity; or
   □ A textbook, coursepack, or other material in any media which is typically purchased or acquired by students for their independent use and retention.

3 Any permitted performance or display must be both:
   □ Made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic, mediated instructional activities of the educational institution; and
   □ Directly related and of material assistance to the teaching content of the transmission.

4 The institution does not know or have reason to believe that the copy of the work to be transmitted was not lawfully made or acquired.

5 If the work to be used has to be converted from print or another analog version to digital format, then both:
   □ The amount of the work converted is no greater than the amount that can lawfully be used for the course; and
   □ There is no digital version of the work available to the institution or the digital version available to the institution has technological protection that prevents its lawful use for the course.

TEACH ACT requirements that will likely fall within the duty of the Institution:

6 The institution for which the work is transmitted is an accredited nonprofit educational institution.

7 The institution has instituted policies regarding copyright.

8 The institution has provided information materials to faculty, students, and relevant staff members that describe and promote US copyright laws.
9 The institution has provided notice to students that materials used in connection with the course may be subject to copyright protection.

10 The transmission of the content is made solely for students officially enrolled in the course for which the transmission is made.

11 Technological measures have been taken to reasonably prevent both:
   □ Retention of the work in accessible form by students for longer than the class session; and
   □ Unauthorized further dissemination of the work in accessible form by such recipients to others.

12 The institution has not engaged in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent retention or dissemination of their works.

13 The work is stored on a system or network in a manner that is ordinarily not accessible to anyone other than anticipated recipients.

14 The copy of the work will only be maintained on the system or network in a manner ordinarily accessible for a period that is reasonably necessary to facilitate the transmissions for which it was made.

15 Any copies made for the purpose of transmitting the work are retained and solely used by the institution.

This document is provided as a courtesy of the Copyright Management Center, IUPUI, 530 W. New York St., Indianapolis, IN 46202. For further information and updates please visit http://www.copyright.iupui.edu/. This document was last updated February 21, 2005.
Appendix B: Checklist for Fair Use

CHECKLIST FOR CONDUCTING A FAIR USE ANALYSIS BEFORE USING COPYRIGHTED MATERIALS

This checklist is a tool to assist you in applying the balancing test for determining whether you may make or distribute copies of works protected by copyright without having to obtain the permission of the copyright holder. It is recommended that you complete and retain a copy of this form in connection with each “fair use” of a copyrighted work.

Directions: Check all boxes that apply. For each of the four sections below, determine whether that factor favors or disfavors a finding of fair use. Where the factors favoring "fair use" outnumber the factors weighing against a finding of "fair use," reliance on the fair use exception is justified. Where less than half of the factors favor "fair use," permission should be obtained before copying or disseminating copies of the work.

Revised for use by Cornell University from the "Checklist for Fair Use," a project of the IUPUI Copyright Management Center, directed by Kenneth D. Crews, Associate Dean of the Faculties for Copyright Management; see www.copyright.iupui.edu.
<table>
<thead>
<tr>
<th>PURPOSE</th>
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<tbody>
<tr>
<td>Favoring Fair Use</td>
<td>Opposing Fair Use</td>
</tr>
<tr>
<td>☐ Teaching (including multiple copies for classroom use)</td>
<td>☐ Commercial activity</td>
</tr>
<tr>
<td>☐ Research</td>
<td>☐ Profiting from the use</td>
</tr>
<tr>
<td>☐ Scholarship</td>
<td>☐ Entertainment</td>
</tr>
<tr>
<td>☐ Nonprofit education institution</td>
<td>☐ Bad-faith behavior</td>
</tr>
<tr>
<td>☐ Criticism</td>
<td>☐ Denying credit to original author</td>
</tr>
<tr>
<td>☐ Comment</td>
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<tr>
<td>☐ News reporting</td>
<td></td>
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<tr>
<td>☐ Transformative or productive use (changes the work for new utility)</td>
<td></td>
</tr>
<tr>
<td>☐ Restricted access (to students or other appropriate group)</td>
<td></td>
</tr>
<tr>
<td>☐ Parody</td>
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<th>NATURE</th>
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<tbody>
<tr>
<td>Favoring Fair Use</td>
<td>Opposing Fair Use</td>
</tr>
<tr>
<td>☐ Published work</td>
<td>☐ Unpublished work</td>
</tr>
<tr>
<td>☐ Factual or nonfiction-based</td>
<td>☐ Highly creative work (art, music, novels, films, plays)</td>
</tr>
<tr>
<td>☐ Important to favored educational objectives</td>
<td>☐ Fiction</td>
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<tbody>
<tr>
<td>Favoring Fair Use</td>
<td>Opposing Fair Use</td>
</tr>
<tr>
<td>☐ Small quantity</td>
<td>☐ Large portion or whole work used</td>
</tr>
<tr>
<td>☐ Portion used is not central or significant to entire work</td>
<td>☐ Portion used is central to the work or is the “heart of the work”</td>
</tr>
<tr>
<td>☐ Amount is appropriate for favored educational purpose</td>
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<th>EFFECT</th>
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<tbody>
<tr>
<td>Favoring Fair Use</td>
<td>Opposing Fair Use</td>
</tr>
<tr>
<td>☐ User owns lawfully acquired or purchased copy of original work</td>
<td>☐ Could replace sale of copyrighted work</td>
</tr>
<tr>
<td>☐ One or few copies made</td>
<td>☐ Significantly impairs market or potential market for copyrighted work or derivative</td>
</tr>
<tr>
<td>☐ No significant effect on the market or potential market for copyrighted work</td>
<td>☐ Reasonably available licensing mechanism for use of the copyrighted work</td>
</tr>
<tr>
<td>☐ No similar product marketed by the copyright holder</td>
<td>☐ Affordable permission available for using work</td>
</tr>
<tr>
<td>☐ Lack of licensing mechanism</td>
<td>☐ Numerous copies made</td>
</tr>
<tr>
<td></td>
<td>☐ You made it accessible on the Internet or in other public forum</td>
</tr>
<tr>
<td></td>
<td>☐ Repeated or long-term use</td>
</tr>
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Appendix C: Guidelines for posting materials in a course management system

- Content is limited by fair use guidelines and copyright policies.

- Faculty should place the following notice prominently within each course site.
  
  o "The materials on this course web site are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated."

- The work must not be an unlawfully made copy of a work covered by US Copyright Laws.

- Access to copyrighted materials must be limited to students currently enrolled in the class.

- Copyrighted materials are limited to the duration of the course.

- If the work is available through a licensed database, use a link to a persistent url rather than scanning the document.
Appendix D: Library Copyright Guidelines for Course Reserves

Print Reserves

The Reserve Room is considered an extension of the classroom and must therefore conform to Fair Use principles (See U.S. Copyright Act) and consideration of the Model Policy Concerning College and University Photocopying for Classroom, Research and Library Reserve Use (http://www.cni.org/docs/infopols/ALA.html#mpup)

When duplicating print materials for reserve, the following four factors of Fair Use will apply:

- The purpose and character of the use (Weighs toward fair use for nonprofit, educational institutions making use of material copied for classroom use).
- The nature of the copyrighted work. (Fair use generally favors the use of factual and nonfiction over fiction and other highly creative works.)
- The amount and substantiality of the portion used in relationship to the copyrighted work as a whole. (Generally speaking the shorter the excerpt used the more likely it will be fair use)
- The effect on the potential market for the copyrighted work (Fair use favors time limits)

The Copyright Management Center at Indiana University has designed a chart to help you determine Fair Use: http://www.iupui.edu/~copyinfo/fuchecklist.html

Remember that no one factor can determine a person’s right to use a copyrighted work without permission, so educational use alone is not sufficient for copies to fall under fair use.

In support of Fair Use, Collins Library has adopted the following guidelines for placing print materials on reserve. If it appears your documents do not clearly meet these guidelines, they may still meet principles of Fair Use, but might be subject to closer analysis of the four factors. Be aware that special consideration may result in some delay in processing materials for reserve.

1. Faculty will be responsible for providing the copies placed on reserve.
2. Multiple copies will be accepted, but the amount should be reasonable in relation to the material and the number of students. (usually up to 5 copies).
3. Copies placed on reserve must have the complete bibliographic information noted.
4. It is the responsibility of the individual faculty member placing material on reserve to abide by copyright guidelines of brevity, spontaneity, and cumulative effect. Reserve employees cannot positively determine fair use.
*guidelines apply in each case.* If there is a question, faculty should contact a librarian to help determine fair use. If material is questionable, it is always a good idea to exercise caution and obtain permission from the copyright holder.

5. **Professors should seek permission if …**
   - the same item is to be used by the same professor from term to term
   - the item is a standard assigned reading for a course taught in multiple sections by several instructors.
   - copies are used to create, replace or substitute for anthologies
   - copies are made of “consumable” works, such as workbooks or standardized tests.
   - copies are substituted for the purchase of books, reprints, or periodicals
   - if there are questions about whether the selections abide by Fair Use guidelines (factors of amount, nature, or cumulative effect).

6. Faculty members are responsible for obtaining permission from the publishers when necessary. See (Obtaining [Copyright Clearance](#) and [Sample Permissions Letter](#))

**Library’s Reserve Room Responsibilities:**
1. The reserve staff will stamp a copyright notice on the first page of the article. (*Notice: this material may be protected by copyright law (Title 17, U.S. Code)*)
2. Items will be placed on reserve if there is insufficient time to obtain permission from the copyright owner
3. The library will try to own at least one copy of a work if it is determined there will be an ongoing need.

**Electronic Reserves**

The guidelines used to determine what is included in the Library’s electronic reserves system will include a fair use analysis using the four standards on a case by case basis. The four standards will allow the Library to make balanced decisions about what material is appropriate for consideration.

First factor: The character of the use.

- The Library implements e-reserves systems in support of nonprofit education.

Second factor: The nature of the work to be used.

- E-reserve systems include text materials, both factual and creative.
They also serve the interests of faculty and students who study music, film, art, and images. The Library takes the character of the materials into consideration in the overall balancing of interests.

Third factor: The amount used.

- The Library considers the relationship of the amount used to the whole of the copyright owner’s work.
- Because the amount that a faculty member assigns depends on many factors, such as relevance to the teaching objective and the overall amount of material assigned, the Library may also consider whether the amount, even the entire work, is appropriate to support the lesson or make the point.

Fourth factor: The effect of the use on the market for or value of the work.

- The Library limits e-reserves access to students within a particular class or classes. Only registered students access the content.
- The Library terminates student access at the end of a relevant term (semester or year) or after the student has completed the course.
- Limiting e-reserves solely to supplemental readings is not necessary since potential harm to the market is considered regardless of the status of the material.
- The Library may determine that if the first three factors show that a use is clearly fair, the fourth factor does not weigh as heavily.

When the material requested for electronic reserve exceeds what is permitted under fair use, permission will be sought to ensure compliance with the Copyright Law and retention of documentation. Any material being requested for more than one semester or for use in more than one course will be used only with permission.

The Library will ensure that it owns one legal copy of the material being placed on electronic reserve.

Further Reading:

See the American Library Association’s *Statement on Fair Use and Electronic Reserves* at: [http://www.ala.org/ala/acrl/acrlpubs/whitepapers/statementfair.htm](http://www.ala.org/ala/acrl/acrlpubs/whitepapers/statementfair.htm)
Appendix E: Faculty Ownership of Copyright

Faculty at the University of Puget Sound are scholars as well as teachers. The results of their scholarship often take forms such as articles, textbooks, monographs, paintings, music and software. Faculty are interested in the free exchange of ideas, both within the university community and outside of the university, and so typically desire to see their ideas communicated to others. Individual faculty are the best to judge how to exercise the rights to their work granted by copyright. For this reason, faculty own the copyright in their works.

Faculty ownership of copyright is consistent with the tradition of academic freedom as described in Part E the Faculty Code (version date here?) "Academic freedom is the right of all members of the academic community to study, discuss, investigate, teach, conduct research, publish or administer freely as appropriate to their respective roles and responsibilities." "A faculty member is entitled to freedom in research and in publication of the results, subject to the adequate performance of the faculty member's other academic duties."

There are three exceptions to faculty ownership.

1. When a faculty member receives extra support from the university for the creation of curricular materials for use at UPS, the faculty member will be expected to grant UPS a perpetual license for the use of those materials within the UPS academic program, whether or not the faculty member is still employed at the university. This license will be requested and granted only at the time the university commits the support.

2. When a faculty member is involved in a project related to the business functions of the university (such as materials used in Admissions), then the copyright in those works will be owned by the university just as would be the case for works created by staff.

3. External grants trump these rules.
Appendix F: Student Release Form

Student papers, projects, and other academic creations, whether in printed or electronic form, nearly always enjoy automatic copyright protection as soon as the work is fixed in some tangible form.

By signing below, the student is specifically granting a non-exclusive distribution license to the University of Puget Sound for the purposes set forth in this document, authorizing disclosure of the student’s work to others, and is relinquishing and waiving any claims that may arise under any statutory or common law protections as a result of the use of this work for these purposes.

<table>
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<tr>
<th>Non-exclusive Distribution License</th>
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<tbody>
<tr>
<td>To properly administer this Research Repository and preserve the contents for future use, the University of Puget Sound requires certain permissions from you, the author(s) or copyright owner. By accepting this license, you still retain copyright to your work. You do not give up the right to submit the work to publishers or other repositories. By accepting this license, you grant to the University of Puget Sound the non-exclusive right to reproduce, translate (as defined below), and/or distribute your submission (including the metadata and abstract) worldwide, in any format or medium for non-commercial, academic purposes only. The University of Puget Sound will clearly identify your name(s) as the author(s) or owner(s) of the submission, including a statement of your copyright, and will not make any alteration, other than as allowed by this license, to your submission. You agree that the University of Puget Sound may, without changing the content, translate the submission to any medium or format and keep more than one copy for the purposes of security, back up and preservation. You also agree that authorized readers of your work have the right to use it for non-commercial, academic purposes as defined by the &quot;fair use&quot; doctrine of U.S. copyright law, so long as all attributions and copyright statements are retained. If the submission contains material for which you do not hold copyright and that exceeds fair use, you represent that you have obtained the unrestricted permission of the copyright owner to grant the University of Puget Sound the rights required by this license, and that such third-party owned material is clearly identified and acknowledged within the text or content of the submission.</td>
</tr>
</tbody>
</table>

The University of Puget Sound will accept the work only if the student signs this release form.

Student’s name: _________________________________________________

Title of the work: ________________________________________________

____________________________________________

____________________________________________
Appendix G: Copyright Ownership for Works Created by Students, Staff, and Independent Contractors

Works by Students
The student, who has no employment relationship with the University, is the copyright holder to any original works he/she creates. However, as a condition of enrollment, the University retains a non-exclusive, perpetual, royalty-free, worldwide license to use all student works generated in the course of academic work at Puget Sound for non-profit educational or research purposes (including reproduction, distribution, the making of derivative works, public performance and public display).

Works created by students in the course of employment at the University are “work for hire” within the meaning of copyright law, and therefore owned by the University.

Works by Staff
Works created by staff employees in the course of employment are "work for hire" within the meaning of copyright law, and are therefore owned by the University.

Works by Independent Contractors
Works created by independent contractors are "work for hire" within the meaning of copyright law, and are therefore owned by the University.
Appendix H: Copyright FAQ's

COPYRIGHT BASICS

1. What types of material does copyright protect?

The United States Copyright Law of 1976, codified in the U.S.C. Title 17, protects creative work such as literary works (e.g., books, poems and essays), architectural works, musical works, dramatic works, games, movies, videos, photographs, and all kinds of digital works (e.g. software, web pages, computer programs). There are three qualifications for copyright: (1) the work must be “fixed in a tangible medium of expression,” meaning it must exist in some physical form for at least some period of time, no matter how brief; (2) the work must be original; (3) the work must involve some creative effort (e.g., a telephone book is not copyrightable.) Copyright protection does NOT extend to an author’s underlying creative ideas or to facts, because copyright protection is intended to promote the creation of original works that depend on the free exchange of ideas and information.

2. How is copyright protection obtained?

Copyright protection automatically extends to any creative work as soon as it appears in a fixed form. Publication is not necessary to secure copyright. Although registration of the work with the Copyright Office is not required to establish copyright, registration provides important additional rights to the author (e.g., statutory damages, attorney's fees and Customs remedies).

3. Who owns a copyright?

Generally, the original author of the work owns the copyright. There are two major exceptions to this rule. First, in situations of “work made for hire,” the employer or institution may own the copyright. Second, the author may transfer copyright with a signed written document.

4. How long does a copyright last?

Because copyright laws have been changed and amended, the life of a copyright depends on when and where it was created. For U.S.-authored works, the following applies: Works published after 1978, the copyright lasts for the life of the author plus 70 years. Works published before 1978 can have copyright protection for a maximum term of 95 years. If the work is a work for hire or is published anonymously or under a pseudonym, the copyright lasts between 95 and 120 years, depending on the date the work is published. All works published in the United States before 1923
are in the public domain. Works published after 1922, but before 1978, are protected for 95 years from the date of publication. The use of unpublished works has been traditionally more restrictive in order to protect the author’s right to first publication. The copyright term for unpublished works is “life plus 70 years.”

5. What is the TEACH act?

The TEACH Act (Technology, Education, and Copyright Harmonization Act of 2002, 17 U.S.C. § 110(2)) provides a list of distance learning activities exempt from the scope of copyright infringement. The law covers the scope of educators’ rights to perform and display works and to make the copies integral to such performances and displays for digital distance education. The Act applies to a virtual classroom, such as those faculty members create using the University’s course management software known as “ANGEL”. The rights identified by the TEACH Act are more restrictive than those applicable to face-to-face teaching. See [http://www.utsystem.edu/OGC/IntellectualProperty/teachact.htm](http://www.utsystem.edu/OGC/IntellectualProperty/teachact.htm) for a review of the TEACH Act and a handy checklist.

6. What is the DMCA?

Title II of the Digital Millennium Copyright Act of 1998 (the “DMCA”), the “Online Copyright Infringement Liability Limitation Act,” limits the liability of complying Internet service providers (“ISPs”), including universities, for the infringging acts of the users of the ISP’s systems. The University has a formal DMCA policy. Among other provisions, the DMCA imposes procedures on the University’s response to subpoenas for information about students’ use of electronic materials and forbids programs or devices that avoid, bypass, remove, deactivate, or impair a technological measure that prevents copying. You should bring DMCA infringement notices to the attention of the Dean’s Office immediately.

CLEARING COPYRIGHT PROTECTED MATERIAL

1. When do I need to clear copyright?

You should clear copyright whenever your proposed use of a copyrighted work could infringe on the exclusive rights of the copyright owner. These six rights include (1) reproduction of the work; (2) distribution of copies of the work; (3) making of “derivative” works; (4) public performance; (5) public display and (6) the right to prevent distortion, modification, or mutilation of certain types of artworks under VARA (the Visual Artists Rights Act, 17 U.S.C. 106A.).
2. **Are there any instances when I do not need to clear copyright?**

There are three exceptions to the general rule that you should clear all material for copyright:
- When the material is in the public domain. Most works enter the public domain when their copyrights expire, but some work, such as government works, are in the public domain from their inception.
- If you are using the material for classroom use. This exception allows educators to use a work for “performance or display” during the course of “face to face” classroom activities. You must meet the four requirements for a face-to-face teaching activity. Please note that the repetitive use of copyrighted works in a course-pack does not qualify under the “classroom use” exception and very likely won’t qualify as fair use.
- If your use of the work meets the test for “fair use”.

3. **When does use of a copyrighted work fall within the “fair use” exception?**

The “fair use” exception to copyright infringement allows copyrighted material to be used in certain situations to promote the free exchange of ideas, including criticism, comment, news reporting, teaching, scholarship or research. You can only be certain that the fair use exception applies if the use is a non-profit use. Congress designed the “fair use” test to be flexible — in practice, the scope of the doctrine is difficult to apply. For more information, read [Section 107 of the Copyright Act of 1976](https://www.copyright.gov/title17/title17.501-378.html).

4. **How do I determine if the work I want to use falls within the fair use exception?**

The four factors to be considered in determining whether a use meets the fair use exception are:
- 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 (on a continuum of creative to factual);
- The **amount** and substantiality of the portion used in relation to the copyrighted work as a whole; and
- The **effect** of the use on the potential market for, or value of, the copyrighted work.
The application of the fair use doctrine involves a complex consideration of these four factors. [See: http://fairuse.stanford.edu/Copyright and Fair Use Overview/chapter9/9-b.html#5] In addition, the Second Circuit’s decision in the Texaco case (American Geophysical Union v. Texaco, Inc., 37 F.3d 881 (2nd Cir. 1994)) raises troubling questions about the breadth of the fair use protection available to the academic community [See Georgia Harper’s discussion of the Texaco case at http://www.utsystem.edu/OGC/IntellectualProperty/tex2.htm#fn1.

Some types of materials will not qualify for the fair use exception and require prior written permission from the copyright owner. These include:

- Generally, any use for profit;
- Unpublished works, including theses and dissertations, unless they are in the public domain;
- Extensive use of a "Special work", such as maps and drawings or poetic prose;
- Consumable works, including workbooks, exercises, standardized tests, test booklets, and answer sheets;
- Extensive use of a work of music or other performance;
- Software and databases and,
- Copying database search results.

Though the University supports a broad reading of the fair use doctrine, you should always check to be sure your copying or use meets the requirements for “fair use.” Several guidelines exist to help you in this determination, but no single one is truly authoritative. The University recommends following the University of Texas “Rules of Thumb”. The Copyright Management Center at Indiana University provides a very helpful fair use checklist that can guide your analysis. Please consult with the Dean’s Office if you need help with a fair use analysis.

5. Do I need to clear the use of any electronic sources or sources obtained from the Internet?

Yes! Contrary to the perception of many, you must assume materials posted on Internet, available for personal downloading or forwarded by e-mail are entitled to the same copyright protection as materials in more traditional form. File-sharing (that is, uploading or downloading copyrighted songs, movies or software without permission from the copyright owner or its agent) is illegal and is a violation of University policy. This has important ramifications for faculty members who choose to post content on their websites for student use. If you plan to download material to your course website, your use of the work must fall within the “fair use” doctrine. Students must also be advised in writing that, unless
the posted materials are in the public domain, any copies they download are for personal use only.

Activities that also may violate copyright, trademark, publicity rights and other laws include deep linking to outside websites, posting material to your website without obtaining permissions, and posting someone else’s name, photo or works of authorship to your website without obtaining the person’s permission. Before posting any material or links on your website, read “Using Materials from the Internet: What You Can and Cannot Do.” Members of the University community are also encouraged to seek guidance from the University counsel with questions about the legality of various uses of copyrighted electronic materials.

OBTAINING PERMISSIONS

1. Why is obtaining permission important?

Obtaining permission is important for two practical reasons. First, permissions are instrumental, under U.S. copyright law, to protecting the fundamental rights of the work’s author. Second, obtaining permission protects you and the University from liability for copyright infringement. Obtaining permission is actually straightforward and typically inexpensive, though there are notable exceptions in several disciplines (for example, it can be challenging to track down rights holders for works in the fields of religion and spirituality). While the burden in time and cost for getting permissions may seem high to you, remember to weigh that burden against the time and cost involved in a lawsuit for copyright infringement.

2. How do I obtain permission for material I want to use for an educational or scholarly purpose?

Once you have decided to seek permission, there are six steps to get you there:

- **Determine if permission is needed.** Is the material protected under the law, and would your use violate the rights of the owner?

- **Identify the owner.** This usually involves looking at the copyright notice to find the publisher or copyright owner. The Copyright Office Circular 22 explains how to find the owner of a copyright. In some cases, as with music, the work may have multiple owners with separate sets of rights. You will need to obtain permission from all of them. Publishers are often the rights holders. If they are not, they will usually direct you to the current rights holders.
Identify the rights needed. This step requires you to specify exactly what work you need (e.g., a poem from a collected work), and submit a request detailing your intended use of the work. Every permissions agreement covers three variables: exclusivity, terms of use, and territory where the work may be used. The reproduction of entire works is often prohibited. To obtain permission easily, we recommend asking for no more than 20% of the work.

Plan Ahead. Most permissions take one to three months to process. If you wait to secure permissions at the last minute, the owner may increase the fees and it could lead to delays in publication. Publishers usually grant permission to use a work for one-time use only. If you are using materials previously cleared, turn-around time on permissions could still take one to three months to process.

Contact the owner and negotiate whether payment is required. Payment varies depending on the type of work you would like to use, but a standard fee is $50. Contact the Publisher. Publishers often have a direct link to a copyright permission form under the contact tab of their web site. Contact the Author. This can be a bit of the challenge and a bit of an adventure. Often the byline for the author will contain useful contact information, such as employment or university affiliation, which can be used to locate the author. If this is not available, a search engine such as Google can be helpful in locating an author. Finally, copyright records can show the author's address. The key here is perseverance. If one avenue closes, look for another one to open.

Get your permission agreement in writing. In case you are sued for copyright infringement, it is much easier to resolve disputes over terms of the contract when the contract is in writing.

3. Do printed course-packs require copyright permission?

Faculty members who require students to read supplemental text materials often produce the materials in a single supplement referred to as a “course-pack.” The purpose of the course-pack is to give students easy access to supplemental reading materials. Faculty members may desire to use the same supplemental materials for multiple classes over multiple quarters or semesters.

For each item of supplemental reading in a printed course-pack, you must determine if the use will be a fair use. [http://www.publishers.org/conference/copyguide.cfm](http://www.publishers.org/conference/copyguide.cfm) provides helpful guidance:

- Limit course-pack material to
4. **How do I obtain permissions (“clear copyright”) for my course-pack?**

   See “How to request copyright permission” at http://www.publishers.org/about/copyrightresources.cfm

5. **What if I can’t find the copyright owner, or I don’t get a response to my request?**

   Assuming that obtaining permission of an author is impractical, you can obtain rights either without charge or for a fee via several services that have large collections of rights. These are called “third party permissions.” For some examples, see http://library.ups.edu/circ/copyright_clearance.htm