

USF LIBRARY RESERVES POLICY

Faculty and staff of the University of St. Francis may use copies of original materials to supplement teaching and research. The use of copyrighted materials is a right granted under the Copyright Law's doctrine of "Fair Use", which must not be abused. This document will outline the University's policy concerning the use of copyrighted materials by faculty and library staff.

University of St. Francis faculty members may place course materials on library reserve for a particular course at USF or they may house content on the electronic reserves server.

All content on library reserves (print or electronic) shall be in compliance with U.S. Copyright Law, or permission shall be secured from the copyright owner by the person seeking to use the material.

US Copyright Law (Title 17, U.S.C.) defines the rights of a copyright holder and how they may be enforced against an infringer. Included within the Copyright Law is the "Fair Use" doctrine which allows, under certain conditions, the reproduction of copyrighted materials. While the Copyright Law lists general factors under the heading of "Fair Use", it does not provide specific directions for what does or does not constitute fair use. The law states:

17 U.S.C. SS107. Limitations on exclusive rights: Fair use notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phono-records or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

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

In November 2002, the Technology, Education and Copyright Harmonization Act (TEACH) became part of Copyright Law. TEACH permits an accredited nonprofit educational institution, where other conditions are satisfied, to transmit materials over digital networks in an amount comparable to that which is typically displayed in the course of a live classroom session. If the provisions of the TEACH Act are met by institutions, the use of certain copyrighted works are allowed without permission from, or payment of royalties to the copyright owner, and without copyright infringement.

To comply with fair use guidelines and the TEACH Act, the original copyright statement from the item or a copyright warning must appear on the first page or screen of the copied work. If the material is being used for more than one course or subsequent (more than one) semesters, the faculty member must seek copyright

permission and provide such records of copyright permission to the library staff to keep on file, see Appendices A and B for details on how to request permissions from a rights holder. Without copyright permission, materials will not be placed on library reserve for multiple classes or semesters.

Materials in the public domain, or, not afforded copyright protection, may be used for library reserves. In order for copyrighted materials to be accepted for library reserves, materials must meet all provisions of the Fair Use doctrine and/or the TEACH Act.

Examples of copyrighted materials that are acceptable for library reserves without obtaining copyright permission are:

- One article from a journal issue
- One chapter or less than 10% of a book
- A short story, essay or short poem, whether or not from a collective work
- A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper
- Government publications
- Any material for which the faculty member owns the copyright
- Any material for which copyright permission has been obtained by the faculty member

Examples of copyrighted materials which may not be placed on reserve without obtaining copyright permission:

- A photocopy of an entire book, whether in print or out of print
- Multiple articles from a single journal issue
- Any material required for more than one consecutive semester or for more than one course in a semester
- Multiple chapters from a single book

For electronic reserves, additional criteria must be met in order to use copyrighted materials:

- Notice must be provided that materials may be subject to copyright protection
- Materials must be made available only to those students currently enrolled in the course
- Materials must be made available only for the specified length of the course
- For digital works, no attempt to override technological controls to access imposed by the copyright owner must be made
- Technological measures must be taken to prevent further dissemination of the materials
- Digital copies of analog materials may be made only if:
 - ❖ A digital copy is not already available
 - ❖ The amount of the work converted complies with general Copyright Law

These criteria will be met by the USF Library. Use of electronic reserve material will be limited by means of a course password designed to control access to only those students and instructors in the class. It is the faculty member's responsibility to distribute the password to registered students.

Appendix A:

When a use of photocopied material requires that you request permission, you should communicate complete and accurate information to the copyright owner. The American Association of Publishers suggests that the following information be included in a permission request letter in order to expedite the process:

1. Title, author and/or editor, and edition of materials to be duplicated.
2. Exact material to be used, giving amount, page numbers, chapters and, if possible, a photocopy of the material.
3. Number of copies to be made.
4. Use to be made of duplicated materials.
5. Form of distribution (classroom, newsletter, etc.).
6. Whether or not the material is to be sold.
7. Type of reprint (ditto, photography, offset, typeset).

The request should be sent, together with a self-addressed return envelope, to the permissions department of the publisher in question. If the address of the publisher does not appear at the front of the material, it may be readily obtained in a publication entitled *The Literary Marketplace*, published by the R. R. Bowker Company and available in all the libraries.

The process of granting permission requires time for the publisher to check the status of the copyright and to evaluate the nature of the request. It is advisable, therefore, to allow enough lead time to obtain permission before the materials are needed. In some instances, the publisher may assess a fee for the permission. It is not inappropriate to pass this fee on to the student who receives copies of the photocopied material.

The Copyright Clearance Center (<http://www.copyright.com>) also has the right to grant permission and collect fees for photocopying rights for certain publications. Any individual may register with the Copyright Clearance Center and use this service in place of writing a direct statement to a copyright holder. For expedited service needs, the USF Library recommends that individuals try the Copyright Clearance Center before attempting to contact a copyright holder individually.

Appendix B:
Sample Letter To Copyright Owner (Publisher) Requesting Permission To Copy:

March 1, 20xx

Material Permissions Department
Hypothetical Book Company
500 East Avenue
Chicago, IL 60601

Dear Sir or Madam:

I would like permission to copy the following for continued use in my classes in future semesters:

Title: Learning is Good, Second Edition
Copyright: Hypothetical Book Co., 1965, 1971
Author: Frank Jones
Material to be duplicated: Chapters 10, 11 and 14
(photocopy enclosed).
Number of copies: 500
Distribution: The material will be distributed to students in my classes and they will pay only the cost of the photocopying.
Type of reprint: Photocopy
Use: The chapter will be used as supplementary teaching materials.

I have enclosed a self-addressed envelope for your convenience in replying to this request.

Sincerely,

Faculty Member