

## Busse Library Copyright Policy

The federal Copyright Act grants certain exclusive rights to copyright holders in works of authorship. Busse Library makes every effort to adhere to the standards of the Copyright Act and the TEACH Act, as described below.

Protected works include both published and unpublished works in a wide range of media - for example, books, articles, photographs, films, and computer programs. The exclusive rights of the copyright holder include:

1. The right to reproduce the work in copies.
2. The right to distribute the work to the public.
3. The right to make derivative works (i.e., modified versions of the work).
4. The right to display the work publicly.
5. The right to perform the work publicly.

### FAIR USE

The fair use provision of the Copyright Act ([Title 17, Section 107 of the U.S. Code](#)) provides guidelines to determine whether a copyrighted work may be distributed or otherwise used without obtaining permission from the copyright holder. Fair use provides the legal basis for many educational uses of copyrighted materials.

Four factors must be considered in determining whether a particular use is a "fair use":

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 the copyrighted work. A use of a factual or scholarly work is more likely to be considered fair than is a use of a work that is predominantly expressive (such as a work of fiction or a dramatic film).
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole. The smaller the portion used, the more likely the use is to be considered fair.
4. The effect of the use upon the potential market for or value of the copyrighted work. A use is more likely to be fair if it does not have a substantial negative impact on the market for the work.

#### ***1. Single Copying for Teachers***

A single copy may be made of any of the following or any part thereof by or for any faculty or staff member at his or her individual request:

- A. A chapter from a book;
- B. An article from a periodical or newspaper;
- C. A short story, short essay or short poem, whether or not from a collective work;
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

## **II. Multiple Copies for Classroom Use:**

Multiple copies (not to exceed in any event more than one copy per student in a course) may be made by or for the faculty giving the course for classroom use or discussion, *provided that*:

- A. The copying meets the following tests of brevity and spontaneity as defined below; *and*,
- B. Meets the cumulative effect test as defined below; *and*,
- C. Each copy includes a notice of copyright

### **Definitions:**

#### **Brevity**

(i) Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a longer poem, an excerpt of not more than 250 words.

(ii) Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in "i" and "ii" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

(iii) Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

(iv) "Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph "ii" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof, may be reproduced.

#### **Spontaneity**

(i) The copying is at the instance and inspiration of the individual teacher, and

(ii) The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

#### **Cumulative Effect**

(i) The copying of the material is for only one course in the school in which the copies are made.

(ii) Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.

(iii) There shall not be more than nine instances of such multiple copying for one course during one class term.

[The limitations stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.]

### **III. PROHIBITIONS AS TO I AND II ABOVE**

Notwithstanding any of the above, the following shall be prohibited:

A. Copying may not be used to create or to replace or substitute for anthologies, compilations or collective works. A prohibited replacement or substitution occurs regardless of whether copies of various works or excerpts therefrom are accumulated or are reproduced and used separately.

B. There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.

C. Copying shall not:

1. substitute for the purchase of books, publisher's reprints or periodicals;
2. be directed by higher authority; or
3. be repeated with respect to the same item by the same teacher from term to term.

D. No charge may be made to the student beyond the actual cost of the photocopying.

## **TEACH ACT**

The "Technology, Education and Copyright Harmonization Act" ([the TEACH Act](#)) of 2002 specifies the terms and conditions by which accredited, nonprofit educational institutions throughout the U.S. may use copyright protected materials in distance education-including on websites and online learning management systems--without permission from the copyright owner and without payment of royalties.

Provisions of the TEACH Act:

1. Nondramatic literary and musical works (e.g., an essay, a song) and "reasonable and limited portions" of other works may be displayed or performed in class sessions that are transmitted online
2. The Act specifically prohibits distribution of works that are marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks. It also prohibits use of copies not lawfully made and acquired under the U.S. Copyright Act, if the educational institution knew or had reason to believe that they were not lawfully made and acquired.
3. The ACT requires the College to enact policies regarding copyright and provide copyright instruction to faculty, students, and staff.
4. The online site should include a notice to students that materials used in connection with the course may be subject to copyright protection.

5. Access to copyrighted works shall be restricted to students enrolled in the course, for the duration of the course, through a secure, password-protected site.
6. The instructor is ultimately in charge of the uses of copyrighted works.
7. Copyrighted materials must serve educational pursuits and are not for entertainment or any other purpose
8. The Act does not encompass the use of textbooks, coursepacks, or other materials which are typically purchased or acquired by the students
9. Before digitizing materials, instructors should confirm that the exact material converted to digital format is within the scope of materials and "portion" limitations permitted under the new law and check for the availability of digital versions.
10. The systems for delivery of distance education shall not interrupt digital rights management code or other technological measures used by copyright owners to control their works.
11. Reasonable controls should be employed to prevent downloading and distributing the material by students.

### **COURSE RESERVE**

The library's course reserve system, both traditional and electronic, is operated in a manner that respects the rights of copyright holders and the limitations to those rights as specified in current copyright law. The library reserves the right to refuse to place on course reserve any material that appears to violate copyright law.

- The course reserve system will consider the substantiality of the copied portion of a work
  1. No more than one chapter from any given book.
  2. No more than one article from any given issue of a journal or newspaper.
  3. No more than one short story, short essay, or short poem from any given book.
  4. No more than one graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.
- Copying from works intended to be "consumable" (e.g. workbooks, exercises, standardized tests, and test booklets) violates copyright law.
- Photocopies or digitized copies must display a copyright notice and attribution of source on the first page of the portion of the material photocopied or digitized.
- If the intent is to use photocopies or electronic copies for more than one semester, instructors are advised to request permission from the copyright holder.
- Copyright permission for the majority of material may be obtained from the publisher or by paying a royalty to the Copyright Clearance Center.

## OFF-AIR RECORDING

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by Mount Mercy University for a period not to exceed the first forty-five consecutive calendar days after date of recording. At the conclusion of this retention period, the recording must be destroyed or erased.
2. Off-air recordings may be used once by individual instructors in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary, in classrooms and similar places devoted to instruction on campus. School days are school session days only, with the forty-five calendar day retention period.
3. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of instructor under these guidelines. Each additional copy will be subject to all provisions governing the original recording.
4. After the first ten consecutive in-session school days, off-air recordings may be used up to the end of the forty-five calendar day retention period only for instructor evaluation (whether or not to include the broadcast program in the teaching curriculum), and may not be used in Mount Mercy University for student exhibition or any other non-evaluation purpose without permission or authorization.
5. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from the original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.
6. All copies of off-air recording must include the copyright notice on the broadcast program as recorded.