

A “How-To” Guide for Faculty

Introduction

Results of a Cornell University Library survey indicate that concerns about liability and uncertainty about copyright rules have resulted in a marked decrease in the use of electronic course materials by faculty. Use of electronic course materials saves time and money for both faculty and students and increases efficiency. This brochure will clarify copyright rules and reassure faculty about what should and should not be done in some common situations.

Copyright Guidelines

To help faculty navigate the myriad issues surrounding copyright, Cornell has created a set of guidelines applicable to electronic course materials: www.copyright.cornell.edu/policy/Copyright_Guidelines.pdf.

Electronic course materials include:

- Reading and multimedia materials distributed through course Web sites, such as Blackboard
- Podcasts
- eReserves available through the Library

Specific Guidelines

- The amount of a work disseminated should be no greater than what is needed for the particular educational use.
- Copies of copyrighted works should include proper attribution and copyright notices.
- Access to the portion of a course Web site containing copyrighted materials should be limited to students enrolled in the course or other individuals requiring access to the course materials for purposes of conducting the course. This can be achieved through the use of passwords or other technological means. CIT provides support for this feature.
- Student access to copyrighted content should terminate when the student has completed the course. CIT provides support for this feature.

Permission Not Required

There are several situations in which materials can be used without permission. These include:

Works Not Protected By Copyright

Common examples of works not protected by copyright include works published by the federal government and works for which copyright protection has expired. The latter category includes all works published in the U.S. prior to 1923, works published prior to 1989 without a copyright notice, and works for which a required renewal was not obtained (this typically affects works published prior to 1963). Assistance in determining whether a work has passed into the public domain can be obtained by e-mailing copyright@cornell.edu.

Works Already Licensed By Cornell

Cornell University Library has paid for subscriptions to many electronic journals that entitle the Cornell community to online access and permit the use of these materials in courses. Faculty can point students to these materials or link to them. In order to check the terms of use applicable to

a particular journal, use Find E-Journals <http://erms.library.cornell.edu/> and then click on the "About Resource" button to see the general license terms for that journal. This information comes from the supplier of the electronic copy. Individual journals or even individual articles may have more restrictive policies; please check the "Terms and Conditions" section of the electronic journal and the copyright notice on an individual article. Cornell also licenses an assortment of image collections and music performance rights.

Fair Use

The law establishes a zone of "Fair Use" protection for copying or disseminating copyrighted works for teaching purposes without obtaining permission from the copyright owner under certain circumstances. Cornell has provided a checklist to be used in deciding whether a particular excerpt from a copyrighted work can be used under Fair Use, which can be found at www.copyright.cornell.edu/policy/Fair_Use_Checklist.pdf. When the factors in the aggregate weigh in favor of Fair Use you are able to use the materials without obtaining permission from the copyright holder. No single factor — such as your previous use of the copyrighted material, use of an entire copyrighted work, unpublished status of

the copyrighted material, revenue generation or educational use — is dispositive.

Your Fair Use analysis may not always yield a clear-cut answer. That is okay. There are benefits associated with going through the decision-making process. Under the copyright law, if nonprofit educational institutions, such as Cornell, or their employees acting within the scope of their employment reproduce copyrighted works under a mistaken but reasonable belief that the copying is a Fair Use, a court will reduce or eliminate the payment owed to the copyright holder.

Other Options

Your Options When A Desired Excerpt Exceeds Fair Use:

- Provide a link directly to the material. Linking does not involve the creation of additional copies and therefore cannot constitute copyright infringement. Much material is available for free from legitimate Web sites such as open archives or open access journals or available under a Creative Commons <http://creativecommons.org/about/licenses/meet-the-licenses> or similar license.

- Get permission from copyright holder.
- Pay for a license through the Copyright Clearance Center.
- Incorporate materials into a course pack. The Cornell Campus Store obtains necessary permission and incorporates any fees into the price of the course pack.
- If costs are prohibitive, seek out substitute materials.

What Else Can You Do?

When publishing your own works, consider retaining the right to re-use your work for educational purposes. Resources to assist you in negotiating these terms with your publisher can be found at www.library.cornell.edu/scholarlycomm/copyright/ and www.arl.org/sparc/author/.

Questions regarding copyright may be directed to copyright@cornell.edu

or

Pat McClary in the Office of University Counsel at pam4@cornell.edu or 255-5126.

<http://www.copyright.cornell.edu>