

**The following summaries are intended to briefly explain Copyright Law and to detail its implications on education and reserves:**

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## **SUMMARIES OF COPYRIGHT LAW AS THEY APPLY TO RESERVES**

### **I. SCOPE OF COPYRIGHT PROTECTION.**

Copyright protects original works of authorship including literary, dramatic, musical, and artistic works such as poetry, novels, movies, songs, computer software and architecture. According to Section 101/102 of the U.S.

Copyright Law, copyright protects “original works of authorship” that are “fixed in any tangible medium of expression”.

“Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.”

Copyright does not extend to some classes of materials, such as facts, ideas, slogans, titles, and works of the U.S. government.

For further information, please refer to U.S. Copyright Office Summary:

<http://www.loc.gov/copyright/circs/circ1.html#wci>.

### **II. ATTAINING COPYRIGHT PROTECTION.**

Since the inception of the U.S. copyright law, the requirements for attaining protection have undergone numerous changes and alterations.

Some examples include:

- ❑ U.S. works prior to **1978** must have a copyright notice in order to be protected.

- ❑ Prior to **1989**, the law required that a work was only protected if it included a formal copyright notice.
- ❑ Prior to **1992**, a rightsholder was required to renew his/her copyright after a twenty-eight year period in order to sustain copyright protection.
- ❑ Today, all works placed in a tangible form are protected by copyright law.

To register copyright please refer to the U.S. Copyright Office:  
<http://www.loc.gov/copyright/reg.html>.

### **III. DURATION OF COPYRIGHT.**

Due to the numerous changes in the copyright law, the duration of protection is dependent on a number of factors including: date of publication, renewal of rights, life of author.

Determining whether a work is still protected or whether the work has become the property of the public domain is essential to establishing rightful use.

Lolly Gassaway, of the *University of North Carolina*, has created a marvelous table that details these many factors; it is very helpful in determining the copyright status of a work. This table may be found at

<http://www.unc.edu/~unclng/public-d.htm>.

### **IV. FUNDAMENTAL RIGHTS OF A COPYRIGHT OWNER.**

Section 106 of the Copyright Act enumerates the basic rights of the copyright owner as follows:

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.
4. The right of public display of the work.
5. The right of public performance of that work.

## **V. ESTABLISHING THE COPYRIGHT STATUS OF A WORK.**

Criteria:

- A. Originality defines the copyright status of a work. An item containing only facts not conveyed in a manner that constitutes an original work is not covered because facts cannot be copyrighted. U.S. government documents are not covered.
  
- B. The term of copyright must still be in effect. The rule of thumb for works created since 1977 is: For individual authors, life of author plus fifty years; for works by joint authors, life of authors plus fifty years from the death of the last surviving author; for anonymous, pseudonymous, and corporate authors, seventy-five years from date of publication or one hundred years from the date of creation, whichever is first. For works published through 1977: Terms vary.

Refer to Lolly Gassaway's chart of duration at  
<http://www.unc.edu/~unc1ng/public-d.htm>.

## **VI. FAIR USE EXCEPTIONS**

107. Limitations on exclusive rights: Fair use 1  
Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords 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 the 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.

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## **ADDITIONAL INFORMATION SPECIFIC TO RESERVES**

### **I. QUICK OVERVIEW OF UNIVERSITY LIBRARIES GUIDELINES:**

All photocopied and electronic reserve items comply with copyright guidelines.

One semester on reserve is permitted under fair use; however, the scope of the material must be within the fair use guidelines.

Additionally, the first time that photocopied/electronic material is placed on reserve, the instructor must sign a *Copyright Compliance Form*.

Photocopies and Electronic materials which have been placed on reserve during any previous term can be accommodated in several ways:

1. By securing permission from the copyright owner for this use and providing the library with proof of such. The University Libraries will seek copyright permission only

from the Copyright Clearance Center. When permission cannot be obtained from CCC, the faculty member must assume the responsibility of securing permission.

2. By purchase, in sufficient quantity, through the library.
3. By ascertaining, in certain cases, that it is permissible to copy the material (faculty's own work, government documents etc.).

## **II. DETERMINING FAIR USE.**

The Fair Use Parameters for Reserve materials are the same that apply to in-class copying:

The fair use guidelines of copyright law allow for an instructor, for a single academic term, to distribute to each student in a class (and all necessary administrative staff for the course) a single copy of a small portion of a copyrighted work, and require the instructor to provide, with the item, notification of its copyright status. This applies to distribution via electronic and paper reserves as well as in-class distribution. These fair use guidelines are derived from Title 17, Section 107 of the United States Code.

### *a. SCOPE OF MATERIAL.*

1. **Size:** Only a reasonable percentage of a work (e.g. a chapter from a book, a single article from a journal issue containing several articles, or excerpts from larger works) can be scanned, copied or otherwise reproduced and distributed. While they do not have the force of law, generally, the percentage allowable by various guidelines is limited to approximately ten percent. The entirety of a copyrighted book or

journal issue cannot, under any circumstances, be scanned and placed on electronic reserve.

2. Possession. The item in question must be owned by the instructor, library, or another part of the institution in order to be placed on reserve this applies to all manner of reserve, physical and electronic.
3. Proportion to total course material. Electronic reserves and Hard Copy Photocopies cannot constitute the total assigned reading for a course indeed and should only contain a small proportion of the assigned reading.

*b. LIMITING ACCESS.*

When copyrighted materials are put on electronic reserve or photocopied for hard copy reserve for a particular class, use must be limited to students in such a class by means of enrollment and electronic password protection.

*c. DURATION AND REPETITION OF MATERIALS ON RESERVE.*

1. Duration of reserve for copyrighted material for which written permission from the copyright holder has not been secured is limited to one semester only.
2. Repetition of reserve use of a copyrighted work requires permission from the publisher. Since copyright permission is usually granted for one semester only, permission must be re-requested for each semester that the material is placed on reserve.

*d. NOTICE AND ATTRIBUTIONS*

A statement incorporating the notice of copyright will be scanned or written as a cover sheet to each copyright document. Attributions and citations of an original source need to be shown as well.

**III. EFFECT ON MARKET.**

It is unlikely that reserve materials would have a detrimental effect on the future market of an author's work. Nevertheless, we need to bear in mind the magnifying effect latent in distribution of materials.