

DEPAUL UNIVERSITY



Copyright and Fair Use

Category: Academic Affairs - Operational

Responsible Department: Academic Affairs

Responsible Officer: Provost

Effective Date: 10/18/2023

Policy Summary

The Copyright and Fair Use Policy covers electronic and print sources for assigned course materials.

Scope

This policy affects the following groups of the University:

- Full-Time Faculty
- Part-Time Faculty

This policy affects all members of the above groups.

Policy

DePaul University is a learning community that fosters the pursuit of knowledge and the transmission of ideas within a context that emphasizes a sense of responsibility for oneself, for others and for society at large. To preserve the quality of education offered to students, the University is responsible for maintaining academic integrity and protecting all those who depend on it, including DePaul's community partners and institutional affiliates. Violations of academic integrity, in any of their forms, are therefore, detrimental to the values of DePaul, to the students' own development as responsible members of society, to the pursuit of knowledge, and to the transmission of ideas. All members of the university community share the responsibility for creating conditions that support academic integrity. In particular, faculty members play an integral role in fostering a climate that is conducive to the development of student responsibility, modeling appropriate behavior and respect for the intellectual property rights of others and encouraging intellectual curiosity, honor, and ownership.

As a matter of legal compliance and academic integrity, therefore, all electronic and print sources for assigned course materials will be in compliance with applicable copyright law.

Under the Copyright Law, "fair use" of a copyrighted work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is

allowed and is not an infringement of copyright. In determining whether the use made of a work in any particular case is fair use, the factors to be considered include:

- The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes
- The nature of the copyrighted work
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole
- The effect of the use upon the potential market for or value of the copyrighted work (amended December 1, 1990, Public Law 101-650, sec 607, 104 Stat. 5132.). See [Copyright Law of the United States of America www.loc.gov/copyright/title17/circ92.pdf](http://www.loc.gov/copyright/title17/circ92.pdf)

To comply with fair use guidelines, the original copyright statement from the item or a copyright warning must appear on the first page or screen of the copied work. DePaul University faculty and staff use the four factors to determine if a selected reading is a fair use, as these are the factors that the courts would consider in assessing whether a particular use is fair or an infringement.

Items which are in the public domain may always be used. If you have a question about whether an item can be used in your course, please contact the University Library at <https://library.depaul.edu/about/contact-us>

Procedures

DePaul University faculty members may place supplementary course materials on library course reserves for a particular course at DePaul, or they may house the content on the Learning Management System (LMS, e.g. Desire2Learn), or on their own course website.

For digital materials supplied by faculty (scanned book chapters, scanned journal and newspaper articles, etc.) through library course reserves, the LMS, or on their own website which are not available through the Library's collection, faculty are responsible for ensuring the following: Only items in the public domain, or whose purpose nature, proportionality, and effect fall within the Section 107's fair use criteria are scanned and posted. Use of digital material will be limited by means of a login designed to limit access to only those students and instructors in the class. When permission from a copyright holder to host copyrighted material expires or is withdrawn, the material will be removed by the instructor.

For all items submitted through course reserves, the Library makes a reasonable effort to acquire, license or otherwise purchase the a digital or physical copy of the course material for the Library collection. If course materials are not available for purchase by the Library, exceed the budget per course limit or are not within the collection scope, faculty will be notified.

Faculty who photocopy materials and distribute print copies or post materials via Desire2Learn, the CDM system, or their own personal website, are responsible for tracking public domain, fair usage, and for securing and appropriately documenting any necessary copyright clearances.

Use of materials posted on the LMS is limited by means of the student's and faculty member's individual password to limit access to only those students enrolled in the course. If an instructor makes copyrighted material available via his or her own website under the provision of the TEACH act (see

appendix II of this document), the instructor must likewise limit access to students currently enrolled in the class. The TEACH act requires reasonable measures to prevent students from retaining the material after the class has ended, and from passing the material on to other users.

When permission from a copyright holder to host copyrighted material expires or is withdrawn, the instructor shall remove the material from the LMS.

It is against the law to distribute photocopies of materials for which permission was denied by the copyright holder.

Procedures for online delivery of copyrighted audio and video:

In accordance with the TEACH act of 2002 (Title 17, Chapter 1, Section 110 of the U.S. copyright law), media that would/could be presented in a traditional classroom context can also be presented online, assuming the following conditions are satisfied:

- Materials must be in streaming (i.e., not-downloadable) format posted on a DePaul streaming service (DePaul currently only hosts a real streaming server,) and accessible only via the rtsp protocol (http protocol must be blocked for downloads to be blocked). Present university technology limitations do not allow for flash video technology.
- Access to material must be restricted to i) students enrolled in the course the material is posted for (e.g. links to the materials must be posted on a password protected access system such as Desire2Learn) and ii) only for the duration of the course (e.g., links to the materials posted within a course must be broken at the end of each quarter).
- Physical copies of the materials must be owned by the Library or evidence must be available of the Library having placed a relevant order for the materials. If a faculty/staff copy is available, material can be digitized and placed online without waiting for the order to be filled. If physical copies are not available for purchase, the digital materials created from a faculty/staff member's legitimate copy can remain available. Faculty are responsible for ensuring items are owned by the Library. If not, a course reserve request should be made for the item. This will alert the Library to acquire the material, if available.
- Videos, films, and other multimedia content may only be used in online courses in reasonable and limited portions that directly relate to the subject matter of the course and the instructor's teaching goals.

The Library is permitted to create digital copies of damaged, rare, or out of print videotapes, LPs, cassettes, CDs, LaserDiscs, etc, from its catalogue, if the digital version is not available for purchase. The Library is permitted to create digital copies of damaged, rare, or out of print books from the DePaul collection, if replacement copies are not available for purchase.

Faculty may not put unauthorized copies of films or television programs on reserve in the library. Faculty may put personal copies of authorized copies of films or television on reserve.

The Library no longer accepts personal compilations of music/video selections by faculty/staff to be placed on Reserve. Non-compliant materials are referred to Instructional Design and Development consultants who will i) work with bibliographers for the possible identification/purchase of the original or alternative sources and ii) create a digital streaming version of the compilation for online posting.

Faculty and staff should be aware that they and their department assistants or others involved in copying may be personally liable for copyright infringement and/or subject to the university's progressive discipline policy if they violate these policies or copyright law generally.

Divisional Collaborations

Law Library
Library
Office of the General Counsel
Copyright Clearance Center
Document Services

Contact Information

Head of Access Services (Library): (773) 325-7862

Print & Mailing Services: (312) 362-8878

Appendices

[Appendix 1: When US Works Pass Into The Public Domain](#)
[Appendix 2: TEACH Act](#)

History/Revisions

Origination Date: 04/08/2008
Last Amended Date: 10/18/2023
Next Review Date: N/A