

# DEPAUL UNIVERSITY

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## Copyright and Fair Use

**Category:** Academic Affairs - Operational

**Responsible Department:** Academic Affairs

**Responsible Officer:** General Counsel

**Effective Date:** 1/14/2016

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### Policy Summary

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

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### Scope

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This policy affects the following groups of the University:

- Full-Time Faculty
- Part-Time Faculty

This policy affects all members of the above groups.

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### Policy

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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>

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## Procedures

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DePaul University faculty members may place supplementary course materials on library reserve for a particular course at DePaul, or they may house the content on the Online Learning (OLL, e.g. Desire2Learn) system, the CTI course system, or on their own course website.

Procedures for electronic reserve items (scanned book chapters, journal and newspaper articles, etc.) not already available through the Library's e-collection (for which the library has purchased licenses to post): 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 on Ereserves. Use of electronic reserve material will be limited by means of a course password designed to limit access to only those students and instructors in the class. It is the instructor's responsibility to distribute the course password to registered students. When permission from a copyright holder to host copyrighted material expires or is withdrawn, the material will be removed from the library reserve system.

Library reserves staff assess copyright needs for individual items and track copyright clearance activities and assessments. Copyright clearance is sought for items that are not deemed fair use under the four factors. Library staff will not post materials that exceed the third criteria of proportionality (e.g., more than one chapter or 10% of a book). The library will seek permission for journal articles, plays, short stories, or other highly creative short works not already licensed through the electronic databases.

In many cases, copyright permissions are only issued upon payment of a fee. The library has a limited capacity to pay for such copyright searches and permissions. In consultation with faculty members, funding decisions are made by library staff based on the availability of funds and the size of the fee relative to class enrollment and the importance of the particular copyrighted material to the course content and pedagogy as presented by the requesting faculty member.

The print source, or a substitute, found in the consultation with the instructor, must be owned by the library. The library makes a reasonable effort to purchase the hard copy of the course material for the circulating collection. If physical copies are not available for purchase by the library or not within the collection scope, digital material that meets fair use under the four factors may continue to be made available online. The library will seek copyright permissions, in accordance with the fourth criteria of market impact.

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. As the library has established procedures for copyright assessments and has licensed content that would lower the cost of permissions fees for the university as a whole, the Ereserve system is the recommended conduit for making course readings available. There may be cases when material is better distributed as a course pack, and the library will work with faculty and Print & Mailing Services to ensure that the method of delivery is appropriate.

Use of materials posted on the Online Learning (OLL) system is limited by means of the student's and faculty member's individual Campus Connection 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 Online Learning (OLL) system.

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 (real, quicktime, windows, etc.,) 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.

- 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, and the library will make reasonable efforts to acquire a copy of the item licensed for public display in the classroom.

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.

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## **Divisional Collaborations**

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

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## **Contact Information**

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Document Delivery Staff (Library): (773) 325-7895

Copyright Assistant (Library): (773) 325-7774

Access Services Coordinator (Library): (773) 325-7772

Print & Mailing Services: (312) 362-8878

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## **Appendices**

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

[Appendix 2: TEACH Act](#)

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## **History/Revisions**

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Origination Date: 04/08/2008

Last Amended Date: 01/14/2016

Next Review Date: N/A