

# MARYMOUNT UNIVERSITY COPYRIGHT POLICY- 2005 Lawyers Changes 10/05

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## **1. EXECUTIVE SUMMARY**

Marymount University abides by all laws pertaining to copyright, and has established copyright guidelines for faculty, staff, students, contractors, consultants, temporary employees as well as community members using Marymount University facilities, based on Title 17 of the U.S. Code, the U.S. Copyright Law.

The Copyright Term Extension Act of 1998 protects the rights of individual authors for the life of the author plus 70 years and 95 years for a corporate author. (1)

The purpose of this document is to provide guidance regarding the protection of copyright by users at Marymount University. The document also establishes procedures to assure that U.S. Copyright laws are followed and further establishes penalties for abuse of Copyright laws.

Copyright protection exists from the time the work is created in fixed form.

## **2. HARDCOPY PAPER COPYRIGHT**

### **2.1. Hardcopy paper copyright Background**

Marymount University has established copyright guidelines for faculty, staff, students, contractors, consultants, temporary employees as well as community members using Marymount University facilities. This is based on Title 17 of the U.S. Code, the U.S. Copyright Law.

#### **2.1.1 Types of Hardcopy Copyright-Protected Material**

Examples of copyright protected material in hard copy include (but are not limited to) books, articles from journals, magazines and newspapers, or any other material published in print or printed from the Internet.

#### **2.1.2. Rights of the Copyright Holder**

Section 106 of the 1976 Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

- a. To reproduce the work in copies;
- b. To prepare derivative works based upon the original work;
- c. To distribute copies of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- d. To perform the work publicly. (2)

### **2.2. Fair Use of Hardcopy Material**

Not all reproductions of copyrighted material are considered to be violations of copyright ownership. The Copyright Law allows for "fair use" of copyrighted material. The following is a brief description of the factors used in determining fair use in general and how the following fair use factors can be applied to the classroom:

### **2.2.1. Four Factors in Determining Fair Use**

There are four factors in determining fair use. They are:

- a. Purpose: The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit educational purposes.
- b. Nature: The nature of the copyrighted work.
- c. Amount: The amount and substantiality of the portion used in -relation to the copyrighted work as a whole.
- d. Effect: The effect of the use upon the potential market for, or value of, the copyrighted work.

### **2.2.2. Fair Use Guidelines for the Classroom**

Not all reproductions of copyrighted material are considered to be violations of copyright ownership. The Copyright Law allows for "fair use" of copyrighted material. The following are brief descriptions of fair use guidelines for the classroom.

#### **2.2.2.1. Single Copying for Faculty**

A single copy may be made of any of the following by or for a teacher at his/her individual request for his/her scholarly research or use in teaching or preparation to teach a class:

- 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.

#### **2.2.2.2. 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 member giving the course for classroom use or discussion, provided that copying:

- a. Meets the tests of brevity and spontaneity; and
- b. Meets the cumulative effect test; and
- c. Includes a notice of copyright (see 2.4 below).

##### **2.2.2.2.1. Brevity and Spontaneity**

Brevity has to meet Fair Use Restrictions(See 2.2.3 e below.) Copying is considered spontaneous at the instance and inspiration of the individual faculty member, and the 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.

#### **2.2.2.2.Cumulative Effect Test**

Cumulative effect test is evidenced by the following:

- a. The copying of the material may be for only one course in the University;
- b. 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;
- c. No more than nine instances of such multiple copying shall occur for one course during one class term.

#### **2.2.3. Fair Use Restrictions**

Notwithstanding any of the above, the following are instances in which copying is prohibited:

- a. Copying shall not be used to create or to replace or substitute for existing anthologies, compilations, or collective works. Such replacement or substitution may occur whether copies of various works or excerpt there from 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 teaching. These include, for example, workbooks, exercises, standardized tests and test booklets and answer sheets.
- c. Copying shall not:
  1. Substitute for the purchase of books, publisher's reprints or periodicals,
  2. Be directed by higher authority,
  3. Be repeated with respect to the same item by the same faculty member from term to term.
  4. Cost students more than the cost of duplication.
- d. For text materials, copying is restricted to up to 10 percent of the total or 1000 words, whichever is less. An entire poem of less than 250 words may be used, but no more than three poems by one poet, or five poems from different authors in an anthology may be used. For poems exceeding 250 words, 250 words should be used but no more than three excerpts from one poet or five excerpts from different poets in the same work.
- e. For illustrations and photographs, it is not permissible to copy more than five images from one artist or photographer, nor more than 10% or 15 images, whichever is less, from a collection.

**2.3. Requesting Permission to Copy for a Course** (This Section 2.3 may change based on a possible subscription to the services of the Copyright Clearance Center.)

Permission to copy must be obtained from the copyright holder, or the holder's agent, regardless of whether or not works are in print. Generally, this permission is handled through the publisher of the work. The following information should be included in a copying request:

- a. Author's, editor's, translator's full name(s);
- b. Title, edition, and volume number of book or journal;
- c. Copyright date;
- d. ISBN for books, ISSN for magazines and journals;
- e. Numbers of the exact pages, figures and illustrations;
- f. For requests of a chapter or more, both the exact chapter(s) and exact page numbers;
- g. Number of copies to be made;
- h. Whether material will be used alone or combined with other photocopied materials;
- i. Name of the University;
- j. Course name and number;
- k. Semester and year in which material will be used;
- l. Instructor's full name; and
- m. Name, address, and phone number of the contact person for the request. (3)

**2.4. Policy on Photocopying at Marymount University**

**2.4.1. Restrictions on copying copyrighted material**

Copying of copyrighted material may not be done on any copier at Marymount University unless:

- a. Permission has been granted from the copyright owner for such copying; or
- b. The "fair use" concept applies (see 2.2. above).

**2.4.2. Notice required on self-use reproduction equipment**

Every piece of self-use reproduction equipment at Marymount University shall have the following notice affixed to it: NOTICE: The copyright law of the United States (Title 17, U.S. Code) governs the making of photocopies or other reproductions of copyrighted materials; *the person using this equipment is liable for any infringement, and will indemnify the university for any and all expenses and damages which it incurs as a result of the unauthorized copying.* (do not change this wording per counsel letter dated August 16, 2005)

### **2.4.3 Copies from the University Copy Center**

Faculty and staff may request copies of copyrighted material from the University Copy Center or from any agent of the University if:

- a. A Copyright Release Form has been completed, which releases the University from liability of copyright infringement by the requestor;  
AND
- b. If no copyright notice can be found in the book, the first page of the material copied will be stamped with: NOTICE: This material may be protected by Copyright Law (Title 17, U.S. Code). AND EITHER
- c. Permission has been granted from the copyright owner for such copying; OR
- d. The "fair use" concept applies (see 2.2. above).

### **2.4.4 Liability for violations of copyright by photocopying**

*Students, faculty and staff are liable not only for their own expenses and damages, but also for the university's costs, expenses (including reasonable attorneys' fees), and any damages which are incurred by the university as a result of any negotiations, settlement or judgment being entered into by or against the University, if they are based on violation of copyrights of any third party. (do not change this wording per counsel letter dated August 16, 2005)* They are responsible for assuring that they are not violating copyright ownership of their material (generally, if only one copy is being made, and it is being used for an educational rather than commercial purpose), or that they have permission from the copyright owner for such copying. (4)

## **3. MUSIC AND MEDIA COPYRIGHT**

### **3.1. Background**

Federal copyright laws, Title 17 of the U.S. Code, protect the authors of literary, musical, dramatic, artistic, architectural, audio and audiovisual and motion media works. These works cannot be reproduced without the permission of the copyright holder. Digital music and films also fall under the purview of these laws.

Works of music and motion media are called "works of authorship" just like books and art. The creators of these electronic works retain exclusive rights to reproduce and distribute their creations.

### 3.1.1.

#### **Definitions**

- a. Music involves at least two types of copyrighted works:
  1. the musical composition itself (sheet music);
  2. A particular recorded arrangement of music (sound recording, phonorecords, MP3)
- b. Motion Media is defined as:
  1. A film (16mm and 35mm);
  2. Videotape (either Beta, VHS, Umatic, digital video or Hi-8) and any animated images;
  3. Any animated or moving images.
- c. Other media

### 3.2. **Fair Use of Copyrighted Music and Media**

Universities can usually use copyrighted music under the following sets of rules:

- a. Blanket license from performing rights societies, such as Broadway Music, Inc. or the American Society of Composers, Authors and Publishers (ASCAP), (5)
- b. Safe harbor guidelines for copying and performance of music in the course of educational activities such as the following:
  1. It is permissible to make emergency copies to replace copies which, for any reason, are not available for an imminent university performance.
  2. A single copy of a sound recording (such as a tape, phonograph record, cassette or compact disc) of copyrighted music may be made from sound recordings by individual teachers for the purpose of conducting an exercise or evaluation. (6)
  3. Individuals can legally download copyrighted music and videos through the use of an online subscription service or from sites officially permitted by copyright holders to offer MP3 downloads, such as "pay for play" services.
  4. Types of media determine the permissible use amounts such as:
    - a. Motion Media: up to 10 percent of the total or three minutes, whichever is less.
    - b. Music, lyrics, and music videos: Up to 10 percent of the work but no more than 30 seconds of music or lyrics from an individual musical work.
    - c. Multimedia project: No more than two copies may be made of a project.

### **3.2.1. Faculty Guidelines**

- a. Faculty may include portions of copyrighted works when producing a multi-media project for teaching in support of curriculum-based instructional activities at educational institutions.
- b. Faculty may use their projects for:
  1. Student self-study assignments.
  2. Remote instruction provided the network is secure and is designed to prevent unlawful copying.
  3. Conferences, presentations, or workshops (Not for Profit).
  4. Their professional portfolio.

### **3.2.2. Time Restrictions**

The fair use of copyrighted material projects lasts for one semester only. After one semester, the faculty member must obtain permission before using the material again.

### **3.3. Policy on Digital Copyrighted Music and Media**

The policy on Copyrighted Music and Media at Marymount University can be found in Section 4 below.

## **4. DIGITAL MATERIAL**

### **4.1. Background**

Congress passed the Digital Millennium Copyright Act (DCMA) in October 1998. The DMCA implements two World Intellectual Property Organization (WIPO) treaties of 1996 as well as addressing other copyright issues. The intention of the DMCA is to cover the legality of distributing copyrighted material online, determine the responsibility and liability of users and service providers, and define enforcement procedures. (7)

#### **4.1.1 Key provisions of the Digital Millennium Copyright (DCMA) Act**

Key provisions of the act include issues surrounding the circumvention of technological measures used by copyright owners to protect their works, fair use in the digital environment, and liability of online service providers.

In order to qualify for the limitations of liability, the University must:

- a. Designate an agent to receive notices of infringement with the U.S. Copyright office.
- b. Inform users that their service will be terminated if found in violation of the DMCA.
- c. Not interfere with standard technical measures used by the copyright holder to protect his/her work.
- d. Comply with "notice and take down" procedures.
- e. Provide copyright education and post copyright notices.

#### **4.2. Compliance with the Digital Millennium Copyright Act**

The Dean of Library and Learning Services will serve as the Coordinator for developing and providing a copyright education program for faculty, staff, students, contractors, consultants, temporary employees as well as for community members using Marymount University facilities.

The Executive Director of Information Technology Services for the Marymount University Computer System is designated as the agent to field all complaints regarding alleged illegal transferring of copyrighted material by Marymount computers.

#### **4.3. The Technology, Education, and Copyright Harmonization Act (TEACH) of 2002**

##### **4.3.1 Background**

The TEACH Act applies to all accredited nonprofit education institutions or governmental bodies and was created to address copyright issues that arise from posting material to be used in distance education. The intent of the TEACH Act is to facilitate the use of digital material in online education without requiring copyright permission.

##### **4.3.2 Conditions to be met under the TEACH Act**

Several conditions must be met in order for the material to fall under the TEACH Act including the following:

- a. The works must be related to the teaching of the course, not as supplemental materials.
- b. Transmission must be limited to students enrolled in the course and technical measures must be in place to reasonably prevent the information from remaining longer than a class session. (8)

##### **4.3.1.1 Materials covered**

Materials covered by the TEACH Act include:

- a. Performances of non-dramatic literary works
- b. Performances of non-dramatic musical works
- c. Performances of reasonable portions of any other work
- d. Display of any other work in an amount comparable to that typically displayed in a "face to face" classroom setting

##### **4.3.1.2 Works not covered**

Materials not covered by the TEACH Act include:

- a. Works produced or marketed primarily for digital instruction.
- b. Any works known to be in violation of copyright laws.

#### **4.4. Fair Use of Copyrighted Digital Material**

#### **4.4.1. Background for copying computer software**

The Software Copyright Amendment of 1980 outlines the guidelines for copying software. Users should assume that software is copyrighted unless otherwise noted. In some instances, copying is allowed and is defined in the copyright notice provided with the software program.

#### **4.4.1.2. Key provisions of the Software Copyright Amendment**

Whether the software is purchased for work or home use, or whether purchased by the user or the user's employer or academic Department, or unless it is explicitly otherwise stated in the Software's copyright notice, or in the terms of the software Purchase agreement, users must comply with the following rules:

- a. Make no more than one copy of the software program to be used as a backup or archive copy.
- b. Install only one copy of the software on one computer, unless the terms of the software purchasing agreement allow for more than single use.
- c. University Departments may make copies of software available for review or lending purposes. (9)
  1. Each copy must be labeled with the following copyright warning notice:  
NOTICE: This material may be protected by Copyright Law.
  2. The program must be uninstalled from the user's machine when the software is returned.

#### **4.4.2 Copying Materials from the Internet**

Materials posted on the Internet fall under the same copyright guidelines as print media. Any object posted on a web site (such as an image, text, sound, etc) may not be downloaded and copied without permission from the owner. This applies even if a copyright symbol is not posted on the web site. Just because the material appears on the Internet does not mean the material is in the public domain.

#### **4.4.2.1. Copying of Numerical Data Sets**

It is permissible to copy up to 10 percent or 2,500 fields or cell entries, whichever is less, from a copyrighted database or data table.

#### **4.5. Policy on Copyrighted Digital Material at Marymount University**

##### **4.5.1. Posting Materials on Web Sites**

Users may not post copyrighted material or provide links to other pages on Marymount University web pages or on personal web pages hosted on the University server without permission from the copyright holder.

#### **4.5.2. Posting Materials on Blackboard**

Copyright materials posted on Blackboard fall under the TEACH Act of 2002 which makes provisions for learning that is not face-to-face. Instructors using Blackboard as a supplemental resource to courses taught in the classroom must follow the copyright guidelines for print media and Internet or digital material and the guidelines of Fair Use.

#### **4.5.3. Notice and Takedown procedures**

When the University receives a notice of infringement from the U.S. Copyright Office, the University Information Technology Services will inform the user, and disable or remove the infringing material. The holder of the copyright and the University may determine that it is appropriate to file a formal response. If a formal response is filed, the University will notify the holder of the copyright and restore the material unless a restraining order has been filed.<sup>10</sup>

### **5. Interlibrary Loan**

#### **5.1. Shared Resources Background**

The Commission on New Technological Uses of Copyright Works (CONTU) guidelines were developed to assist librarians and copyright proprietors in understanding the amount of photocopying for use in interlibrary loan arrangements permitted under the copyright law. (Title 17 U.S. Code 107 & 108) Section 108(g)(2) of the Copyright Law permits photocopying under Interlibrary loan arrangements, unless such arrangements resulted in the borrowing libraries obtaining "such aggregate quantities as to substitute for a subscription to or purchase of" copyrighted works. (11)

## **5.2. CONTU Guidelines**

Libraries may make copies of materials for sharing with other libraries through Interlibrary Loan using the following guidelines:

- a. Libraries may request no more than five copies of articles from a periodical volume (not an issue) per year. However, this limitation does not apply to articles published five or more years before the date of the request. Also known as the "rule of five"
- b. Libraries may request no more than five small (such as a chapter) excerpts from a book or pamphlet while it is subject to copyright protection. Also known as the "rule of five"
- c. The above limitations do not apply if: the library has ordered a subscription to the periodical; the library owns the work but the copy is lost, stolen, or otherwise unavailable when the reproduction is requested; or the library has ordered the title but it has not arrived.
- d. The borrowing library must certify that the Interlibrary Loan request conforms to the Copyright Laws and CONTU guidelines. The lending library is responsible for noting whether the borrowing library has certified compliance.
- e. The borrowing library must maintain records of filled Interlibrary Loan (ILL) orders, which must be kept for three years after the end of the calendar year.

### **5.2.1. Requesting Photocopies**

Requesting a photocopy of an entire book: Libraries must comply with Title 17 U.S. Code Sections 108(e) and (g) and:

1. Determine that a copy cannot be obtained at a fair price;
2. The copy must become the property of the patron;
3. Have no knowledge that the copy will not be used for a purpose other than private study, scholarship or research;
4. Display at the point where orders are accepted and on the order form a "Warning of Copyright"
5. Must not be aware or have substantial reason to believe the requestor is engaging in related or concerted reproduction or distribution of multiple copies of the same material;
6. Will pay royalties on any copy that exceeds the "rule of five";
7. Will maintain its records of the request for three years.

Requesting a photocopy of an entire journal issue: Libraries must comply with Title 17 U.S. Code Sections 108(e) and (g) and the CONTU Guidelines and:

1. Determine that a copy cannot be obtained at a fair price;
2. The copy must become the property of the patron;
3. Have no knowledge that the copy will be used for a purpose other than private study, scholarship or research;
4. Display at the point where orders are accepted and on the order form a "Warning of Copyright"
5. Must not be aware or have substantial reason to believe the requestor is engaging in related or concerted reproduction or distribution of multiple copies of the same material;
6. Will pay royalties on any copy that exceeds the "rule of five";
7. Will maintain its records of the request for three years.

Requesting a photocopy of an article from a journal issue or a small part of another work: Libraries must comply with Title 17 U.S. Code Sections 108(d) and (g) and the CONTU Guidelines and:

1. The copy must become the property of the patron;
2. Have no knowledge that the copy will be used for a purpose other than private study, scholarship or research;
3. Display at the point where orders are accepted and on the order form a "Warning of Copyright"
4. Must not be aware or have substantial reason to believe the requestor is engaging in related or concerted reproduction or distribution of multiple copies of the same material;
5. Will pay royalties on any photocopy of a periodical article that exceeds the "rule of five";
6. Will maintain its records of the request for three years. (12)

### **5.3. Interlibrary Policy at Marymount**

### **5.3.1 Borrowing**

Copyright compliance indication on borrowing requests sent:

- a. On each borrowing request for photocopies, the ILL unit will clearly indicate whether the request "Conforms to the CONTU Copyright Guidelines" (CCG) or "Conforms to the Copyright Law" (CCL).
- b. CCG will be indicated when the Library does not currently subscribe to a periodical title and the material requested was published within five years of the date of request.
- c. CCL will be indicated on requests for material which will become the property of the patron when:
  1. The material requested was published earlier than five years prior to the date of the request, or
  2. The library believes because of the circumstances of the request that the reproduction and distribution of the copy is "fair use" according to Title 7, Sect. 107.

### **5.3.2 Lending**

- a. All requests must clearly indicate whether the request "Conforms to the CONTU Copyright Guidelines" (CCG) or "Conforms to the Copyright Law" (CCL).
- b. All photocopies will be stamped NOTICE: This material may be protected by Copyright Law (Title 17, U.S. Code). (13) The library reserves the right to refuse any requests for photocopies, which it believes, would constitute a violation of copyright laws. (14)

## **6. RESERVES**

### **6.1 Hard Copy Course Reserves Background**

Title 17 U.S. Code Section 107 establishes the principle, commonly called "fair use," that the reproduction of copyright works for certain limited, educational purposes, does not constitute copyright infringement. (15) The American Library Association (ALA) The Model Policy Concerning College and University Photocopying for Classroom, Research and Library Reserve Use guidelines were developed to assist libraries in interpreting the fair use of copyright materials placed in reserve settings. (16)

#### **6.1.2 Fair Use**

There are four factors in determining fair use:

- a. Purpose: The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit education purposes.
- b. Nature: The nature of the copyrighted work.
- c. Amount: The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
- d. Effect: The effect of the use upon the potential market for, or value of, the copyrighted work. (17)

For further detail on Fair Use see Section 2.2 Fair Use of Hardcopy Material

### **6.1.3. Policy on Placing Hardcopy Material on Reserve at Marymount University**

#### **6.1.3.1 General Guidelines**

- a. Copies may be on Reserve for one semester; subsequent semesters require permission.
- b. Copies must include full bibliographic information for citing.
- c. Copies must include a symbol or symbols from the preface of the parent work.
- d. Students are not assessed any fees beyond photocopy costs.<sup>18</sup>
- e. Person placing photocopy on reserve must certify the copy complies with the Copyright Law.
- f. A request for copied material to be placed on reserves must be filled out and signed by the requesting party each semester.

#### **6.1.3.2. Portions of Copyrighted Materials that may be Placed on Reserve without obtaining Copyright Permission for a single class and a single semester:**

- a. A chapter from a book.
- b. An article from a periodical or newspaper.
- c. A short story, 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.
- e. Commercially produced course packs (Copyright for these items are generally secured by the vendor.)
- f. Government publications. (19)

#### **6.1.3.3. Items Requiring Copyright Permission for Reserve**

The following materials require copyright permission for placing on reserve:

- a. Items not meeting the four factors of fair use
- b. Multiple articles from one issue of a journal, periodical, or newspaper.
- c. Multiple chapters of one book or conference proceeding.
- d. Copies needed for more than one semester for the same class.

#### **6.1.3.4. Copyrighted Materials that may not be placed on Reserve**

- a. A photocopy of an entire book
- b. Multiple articles from a single journal issue. (20)
- c. Items that have been requested through Interlibrary Loan (ILL) or through the Consortium Loan Service (CLS).

### **6.1.3.5. Personal Materials that may be placed on Reserve**

- a. Exams;
- b. Lecture notes;
- c. Student papers (with student's permission); (21)
- d. Homework solutions.

## **6.2 MULTIMEDIA COURSE RESERVES**

### **6.2.1 Background**

Federal copyright laws, Title 17 of the U.S. Code, protect the authors of literary, musical, dramatic, artistic, architectural, audio and audiovisual and motion media works from being reproduced without the permission of the copyright holder. Digital music and films also fall under the purview of these laws. (8)

Title 17 U.S. Code Section 107 establishes the principle, commonly called "fair use," that the reproduction of copyright works for certain limited, educational purposes, does not constitute copyright infringement. (22)

### **6.2.2 Fair Use**

There are four factors in determining fair use:

- a. Purpose: The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit education purposes.
- b. Nature: The nature of the copyrighted work.
- c. Amount: The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
- d. Effect: The effect of the use upon the potential market for, or value of, the copyrighted work. (23)

For further detail on Fair Use see Section 3.2 Fair Use of Copyrighted Music and Motion Media

### **6.2.3. Policy on Placing Media on Reserve**

#### **6.2.3.1 General Guidelines**

- a. Videotapes which have been recorded from television programs may be placed on reserve one time; a copy of the program purchased from the copyright holder (or authorization from the copyright holder) is required for the next term's use. (24)
- b. Person placing media on reserve must certify the copy complies with the Copyright Law.
- c. A request for copied material to be placed on reserves must be filled out and signed by the requesting party each semester.

### **6.2.3.2 Materials that may be placed on Reserve without**

Obtaining Copyright Permission for a single class and a single semester

- a. One copy of any commercial video not part of the libraries collection and purchased by the instructor for home use for in-library use only. (25)
- b. Library-owned DVDs/videos
- c. Rental DVDs/videos
- d. Videos of classroom activities. (26)

### **6.2.3.3 Items Requiring Copyright Permission from a Licensing Center or from a Program's Producer for Reserve**

- a. Off-air and cable programs (off-air recordings)
- b. Commercial videos, DVDs
- c. Homemade cassettes, DVDs, CDs, or other electronic format containing copyright music or other audio media (27)
- d. Excerpts from a copyrighted videocassette that amounts to more than 10% or 3 minutes which ever is less. (28)

### **6.2.3.4 Restrictions for Copies of Broadcast Network Items**

- a. Copy must be of the initial broadcast
- b. Copy must be accompanied with proof of its airdate (for example TV Guide)
- c. Copy may only be used ten days after the airdate.
- d. Copy is destroyed 45 days after the airdate. (29)

## **6.3. Electronic Reserves (E-Reserves)**

### **6.3.1 Background**

Title 17 U.S. Code Section 107 establishes the principle, commonly called "fair use," that the reproduction of copyright works for certain limited, educational purposes, does not constitute copyright infringement.

### **6.3.2 Fair Use**

There are four factors in determining fair use:

- a. Purpose: The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit education purposes.
- b. Nature: The nature of the copyrighted work.
- c. Amount: The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
- d. Effect: The effect of the use upon the potential market for, or value of, the copyrighted work. (30)

### **6.3.3 Marymount Policies on placing items on E-reserve**

### **6.3.3.1 General Guidelines**

- a. Electronic files will be removed from access on the system at the conclusion of the course.
- b. Copies must include full bibliographic information for citing.
- c. A copyright notice will appear on screen.
- d. Electronic reserves are password protected. (31)
- e. Students are not assessed any fee beyond actual costs of photocopying. (32)
- f. Person placing photocopy on reserve must certify the copy complies with the Copyright Law.
- g. A request for copied material to placed on reserves must be filled out and signed by the requesting party each semester.

### **6.4.3.2 Materials that may not be placed on Electronic Reserve**

- a. Pages from works intended to be "consumable" in the course of study or teaching. These include copyrighted workbooks, exercises, standardized tests, test booklets and answer sheets.
- b. Course packs of any variety will not be accepted for electronic reserve.
- c. Entire book or play.
- d. More than one article from the same issue of a journal or newspaper
- e. More than one chapter from the same book (except when several chapters represent a small portion of the entire work). (33)

## **7. VIOLATING COPYRIGHT LAWS**

### **7.1 Penalties for Violating Copyright Law**

In addition to criminal and civil penalties associated with violations associated with violations of federal laws, persons knowingly violating the U. S. Copyright Laws will also be subject to those rules and regulations at Marymount University dealing with theft, fraud, plagiarism, or similar activities, as appropriate for their university status. "Persons" refers to employees, students, contractors, consultants, temporary employees, as well as community members using Marymount University facilities.

When appropriate, cases of apparent abuse will be reported to the Vice President for Enrollment and Student Services for student cases, the Vice President for Financial Affairs for staff cases and the Vice President for Academic Affairs for Faculty cases. All violations are subject to disciplinary action and may include dismissal from the University or termination of employment. IT Services reserves the right to immediately suspend user privileges on Marymount University computer systems pending investigation. Apparent abuse by official visitors, consultants or agents of Marymount University will be reported to the appropriate Vice President

## **7.2 Procedures for Notice and Takedown**

When the university receives a notice of infringement from the U. S. Copyright Office, the university Information Technology Services organization will inform the owner (user), and disable or remove the infringing material. The copyright holder and the university may determine that it is appropriate to file a formal response. If a formal response is filed, the university will notify the copyright owner (user) and restore the material to the user, unless a restraining order has been filed. (34)

## ENDNOTES

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31. University of Wisconsin-La Crosse. Electronic Reserves:A guide for Instructors.  
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