



Learning Support and Disability Services Department

Guidelines for Class Materials

(Textbooks and Photocopied Readings)

The College of Idaho is committed to the goal of universal design throughout our physical campus and within our curricular and co-curricular offerings. These guidelines are intended to help the College in this commitment by informing instructors of the requirements pertaining to course reading materials.

Students with certain documented learning disabilities are entitled to PDF files of their reading materials that have **Optical Character Recognition (OCR)** added. OCR converts every symbol on a page of print into sounds, which allow the text to be read out loud through a student's personal computer using Natural Reader or other similar software programs. Due to this, only clean, unmarked originals can be used to create photocopies (for example, notes in margins are not readable by OCR technology and cause the entire page to be unreadable).

*If you are wondering if an article is OCR compatible, try to highlight sentences as if you were going to copy/paste them. If they cannot highlight, they are not OCR compatible, and your article will have to be adapted to work with reader software.

In order for the Learning Support and Disability Services (LSDS) Department to create a PDF/OCR copy of any copyrighted material, it must have explicit permission to do so from the copyright holder or reasonably be able to demonstrate adherence to academic copyright fair use laws (see below for more detail). The instructor and Disability Services Director should work together to obtain permission or establish compliance with the academic copyright fair use laws.

Textbooks:

- Many publishers and the Accesstext Network make PDF/OCR files of textbooks available to students with documented needs. However, delivery of such materials usually requires at least 30 days for delivery. Thus, instructors should decide on the textbooks to be used for their course as early as possible in the course development process, and the LSDS Department should notify instructors as soon as possible about anticipated needs. A textbook added to the course with less than 30 days' notice may not be available until after the start of the semester or, in the case of winter term, not until after the course has ended.

Photocopied reading materials:

- Photocopies must be free of any underlining, marks or writing in the margins; and all black lines/streaks/shadows must be removed from the original photocopy.
- Photocopies must contain only one page of original text.

- If the photocopy results in curved, unreadable print with dark shadows around the spine, the instructor should obtain a copy of the book and arrange with the LDS Department to chop the spine in order to provide readable copies.
- All print must read in the portrait position on the paper. Please do not place 2 pages of print in the landscape position on the page. Multiple columns on a page in the portrait position works well with scanning and Natural Reader.

Assuming the student has registered with the LDS Department, it is the College's responsibility to make every reasonable effort to obtain ADA-compliant course reading materials in a timely fashion. Failure to provide eligible students with appropriate materials in a timely fashion leaves the College vulnerable for an internal grievance and/or for a complaint to The Department of Civil Rights. Complaints filed with The Department of Civil Rights may result in a thorough and far-reaching campus investigation.

If you have any questions about these guidelines, please contact the Learning Support and Disability Services Department or the VP for Student Affairs and Dean of Students.

The following introduction to fair use (with slight adaptations) came from the University of Maryland, University College (<http://www.umuc.edu/library/libhow/copyright.cfm#fairuse>):

An Introduction to Fair Use

What is Fair Use?

Fair use is the most significant limitation on the copyright holder's exclusive rights (United States Copyright Department, 2010, para. 1). Deciding whether the use of a work is fair IS NOT a science. There are no set guidelines that are universally accepted. Instead, the individual who wants to use a copyrighted work must weigh four factors:

The purpose and character of the use:

- Is the new work merely a copy of the original? If it is simply a copy, it is not as likely to be considered fair use.
- Does the new work offer something above and beyond the original? Does it transform the original work in some way? If the work is altered significantly, used for another purpose, appeals to a different audience, it more likely to be considered fair use (NOLO, 2010, para. 6). Recent case law has increasingly focused on transformative use to make fair use determinations – for a discussion of this topic see Lultschik, 2010.
- Is the use of the copyrighted work for nonprofit or educational purposes? The use of copyrighted works for nonprofit or educational purposes is more likely to be considered fair use (NOLO, 2010, para. 6).

The nature of the copyrighted work:

- Is the copyrighted work a published or unpublished work? Unpublished works are less likely to be considered fair use.

- Is the copyrighted work out of print? If it is, it is more likely to be considered fair use.
- Is the work factual or artistic? The more a work tends toward artistic expression, the less likely it will be considered fair use (NOLO, 2010, para. 9).

The amount and substantiality of the portion used:

- The more you use, the less likely it will be considered fair use.
- Does the amount you use exceed a reasonable expectation? If it approaches 50 percent of the entire work, it is not likely to be considered a fair use of the copyrighted work.
- Is the particular portion used likely to adversely affect the author's economic gain? If you use the "heart" or "essence" of a work, it is less likely your use will be considered fair (NOLO, 2010, para. 13).

The effect of use on the potential market for the copyrighted work:

- The more the new work differs from the original, the less likely it will be considered an infringement.
- Does the work appeal to the same audience as the original? If the answer is yes, it will likely be considered an infringement.
- Does the new work contain anything original? If it does, it is more likely the use of the copyrighted material will be seen as fair use (NOLO, 2010, para. 11).

What are the Rules for Fair Use for Instructors?

Copying by instructors must meet tests for brevity and spontaneity:

- Brevity refers to how much of the work you can copy.
- Spontaneity refers to how many times you can copy and how much planning it would take to otherwise seek and obtain permission from a copyright holder (U.S. Copyright Department, 2009, p. 6).

According to the rule, the need to copy should occur closely in time to the need to use the copies. If you use something repeatedly, it is less likely to be considered fair use. The expectation is that you will obtain permission from the copyright holder as soon as it is feasible. Using something over a period of multiple semesters or years is not within the spirit of the fair use exception. In addition, there are recommendations for what the U.S. Copyright Department calls "special" works.

- "Certain works in poetry, prose, or in 'poetic prose' which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety" (U.S. Copyright Department, 2009, p. 6).
- Special works should never be copied in their entirety.
- An excerpt of no more than two pages or 10 percent, whichever is less, is the rule for special works (U.S. Copyright Department, 2009, p. 6).

The use of the copies should be for one course at one school. The copies should include a notice of copyright acknowledging the author of the work (U.S. Copyright Department, 2009, p. 7). Faculty and instructors should consider both the special guidelines for instructors and take into account the four factors that are used to evaluate fair use when they are deciding what and how much of a copyrighted work to use.

In General, What Counts as Fair Use?

Keeping in mind the rules for instructors listed above, and that the source(s) of all materials must be cited in order to avoid plagiarism, general examples of limited portions of published materials that might be used in the classroom under fair use for a limited period of time, as discussed by the U.S. Copyright Department (2009, p. 6), include:

- A chapter from a book (never the entire book).
- An article from a periodical or newspaper.
- A short story, essay, or poem. One work is the norm whether it comes from an individual work or an anthology.
- A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.
- Poetry
 - Copies of a poem of 250 words or less that exists on two pages or less or 250 words from a longer poem.
- Prose
 - Copies of an article, story or essay that are 2,500 words or less or excerpts up to 1,000 words or 10 percent of the total work, whichever is less.
- Illustrations
 - Copies of a chart, graph, diagram, drawing, cartoon, or picture contained in a book or periodical issue (U.S. Copyright Department, 2009, p. 6).

What Should Be Avoided?

- Making multiple copies of different works that could substitute for the purchase of books, publisher's reprints, or periodicals.
- Copying and using the same work from semester to semester.
- Copying and using the same material for several different courses at the same or different institutions.
- Copying more than nine separate times in a single semester (U.S. Copyright Department, 2009, p. 7).

When is Permission Required?

- When you intend to use the materials for commercial purposes.
- When you want to use the materials repeatedly.
- When you want to use a work in its entirety, especially when it is longer than 2,500 words (U.S. Copyright Department, 2009, p. 7).

Copyright and Electronic Publishing


- The same copyright protections exist for the author of a work regardless of whether the work is in print, in a library research database, a blog, an online discussion board or comment space, or any social media formats.
- If you make a copy from an online source for your personal use, it is more likely to be seen as fair use. However, if you make a copy and put it online, it is less likely to be considered fair use.
- Note that the Internet IS NOT the public domain. There are both copyrighted and uncopyrighted materials online. Always assume a work online is copyrighted.

Tips for Using Online Information

- Always credit the source of your information. If you do not see an individual named as the author, do not forget that the author may in fact be the organization responsible for the Web site. Credit the organization.
- Find out if the author of a work (e.g., text, video, audio, graphic, etc.) provides information on how to use his or her work. If the author provides explicit guidelines, follow them.
- Whenever feasible, ask the copyright holder for permission. If no copyright holder is specifically named, do not assume that the material is in the public domain. Assume that the copyright holder is the author, whether it be an individual or an organization. Keep a copy of your request for permission and the permission received.

NOLO. (2010). *The 'fair use' rule: When use of copyrighted material is acceptable*. Retrieved from <http://www.nolo.com/legal-encyclopedia/article-30100.html>

United States Copyright Department. (2008). *Copyright basics*. (Circular 1). Retrieved from <http://www.copyright.gov/circs/circ01.pdf> 

United States Copyright Department. (2009). *Reproduction of copyrighted works by educators and librarians*. (Circular 21). Retrieved from <http://www.copyright.gov/circs/circ21.pdf> 

United States Copyright Department. (2010). *Fair use*. (Circular FL-102). Retrieved from <http://www.copyright.gov/fls/fl102.html>