

Franciscan Missionaries of Our Lady University

Copyright Compliance Policy

COPYRIGHT STATEMENT

Franciscan Missionaries of Our Lady University respects the proprietary rights of owners of copyrighted works and promotes the protection of copyrighted works. All members of the campus community are expected to abide by the federal Copyright Law (Title 17, United States Code, Section 101 and following) and to refrain from actions that constitute an infringement of copyright or other proprietary rights. Members of the Franciscan Missionaries of Our Lady University community should become familiar with these guidelines, to act with careful consideration of their requirements, and to seek assistance whenever necessary and as directed.

Willful disregard of federal Copyright Law by members of the community may result in personal liability in the event that legal action is taken against them. Further, the University may refuse to defend employees named in a court suit and employees may be personally liable for any damages incurred as a result of the copyright violation.

The purpose of the Franciscan Missionaries of Our Lady University Copyright Compliance Policy is to provide recommendations and guidance in regard to copyright questions. U.S. copyright law contains many gray areas (including works that may be protected by copyright even if published without a copyright notice), and the goal of this policy is to provide administrators, faculty, librarians, students, employees, and others with appropriate tools and resources to guide them. This document will spotlight some basic questions, particularly relevant in academics, while providing recommendations for further research.

The copyright documents & resources referenced in this policy are not produced by Franciscan Missionaries of Our Lady University counsel. They are official copyright office documents, documents recommended by the American Library Association, or other recommended resources. The information received herein is not legal advice.

Recommended Resource: Official Copyright Page- United States Code, Title 17
<https://www.copyright.gov/title17/>

Recommended Resource: Frequently Asked Questions about Copyright
<https://www.copyright.gov/help/faq/index.html>

COPYRIGHT BASICS

The Congress shall have Power...To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

~United States Constitution, Article I, Section 8

What Is Copyright?

Copyright is an area of law that provides creators and distributors of creative works with an incentive to share their works by granting them the right to be compensated when others use those works in certain ways. Specific rights are granted to the creators of creative works in the U.S. Copyright Act (title 17, U.S. Code). Individuals wishing to reuse or reproduce a particular copyright-protected work must ordinarily obtain copyright permission. However, there are some specific exceptions in the Copyright Act for certain academic uses, and permission is never required for certain other actions, such as reading or borrowing original literary works or photographs from a library collection.

Refer to Circular 1 for Questions Related to:

- Works eligible for protection
- Rights of copyright owners
- Who can claim copyright?
- Duration of copyright

Recommended Resource: Copyright Basics, Circular 1
<https://www.copyright.gov/circs/circ01.pdf>

What is Fair Use?

A provision for fair use is found in the Copyright Act at Section 107. Under the fair use provision, a reproduction of someone else's copyright-protected work is likely to be considered fair use if it is used for one of the following purposes: criticism, comment, news reporting, teaching, scholarship and research. If the reproduction is for one of these purposes, a determination as to whether the reproduction is fair use must be made based upon four factors:

- The purpose and character of use (principally, whether for commercial or nonprofit educational use);
- The nature of the copyright-protected work;
- The amount and substantiality of the portion used; and
- The effect of the use being evaluated upon the potential market for or value of the copyright-protected work.

Fair use is an ambiguous concept, and the law does not state exactly what uses of a copyrighted work will be considered fair uses. As such, individuals who are not lawyers may often need to be interpreters of the law in everyday circumstances, and answers as to how much reproduction may be considered fair use often remain unclear. The bottom line is that fair use requires a very circumstance-specific analysis as to whether a particular use or reuse of a work may indeed be considered fair use.

A Fair Use checklist is intended to assist in complying with the "fair use" provisions of the Copyright Act. Faculty members can use this tool for evaluating fair use of copyrighted works. Fair use provisions are included in the Copyright Act to assist in use of works for education purposes, research, and teaching. Faculty should complete this checklist and keep with records to show intent and application of fair use.

Photocopying

Photocopying of materials at the Franciscan Missionaries of Our Lady University Library is permitted, provided the following criteria are met:

- The user makes one reproduction of an article from a periodical or a small part of any other work;
- The reproduction becomes the property of the library user;
- The library has no reason to believe that the reproduction will be used for purposes other than private study, scholarship and research; and
- The library displays a Copyright statement at the location users make their reproduction requests.

Photocopying by students is subject to a fair use analysis as well. A single photocopy of a portion of a copyright-protected work, such as a copy of an article from a scientific journal made for research, may be made without permission. Photocopying all the assignments from a book recommended for purchase by the instructor, making multiple copies of articles or book chapters for distribution to classmates, or copying material from consumable workbooks, all require copyright owner permission.

To avoid confusion and minimize the risk of copyright infringement, Franciscan Missionaries of Our Lady University recommends evaluating a work using a “Fair Use Checklist.”

Refer to Circular 21 for Questions Related to:

Reproduction of copyrighted works by educators, librarians, and archivists for a variety of uses, including:

- Reproduction for teaching in educational institutions at all levels and
- Reproduction by libraries and archives for purposes of study, research,
- interlibrary exchanges, and archival preservation

Recommended Resource: Fair Use Checklist, ALA Advocacy

<http://www.ala.org/advocacy/sites/ala.org.advocacy/files/content/copyright/FairUseChecklist.pdf>

Recommended Resource: Reproduction of Copyrighted Works by Educators and Librarians, Circular 21

<https://www.copyright.gov/circs/circ21.pdf>

Inter-library Loan

The Franciscan Missionaries of Our Lady University Library may participate in inter-library loans (ILL) without obtaining permission provided that the "aggregate quantities" of articles or items received by the patron do not substitute for a periodical subscription or purchase of a work. The University follows the CONTU guidelines for defining "aggregate quantities."

Recommended Resource: CONTU Guidelines

<http://www.ala.org/advocacy/sites/ala.org.advocacy/files/content/copyright/GLsInterlibLoan.pdf>

Copyright & Licensed Databases

Franciscan Missionaries of Our Lady University provides access to a number of licensed databases. These databases are available to current students, faculty and staff in the campus community. The databases can be accessed online through MyPortal. Individual members of the Franciscan Missionaries of Our Lady University community may have access to, print and reproduce these materials for educational use. Different databases have different terms-of-use. For instance, some may allow direct linking to articles for educational purposes. Most allow faculty members to place them on electronic reserve for class use. As product licenses may vary, please consult the databases' help section for database-specific terms.

Recommended Copyright Resources

Copyright Law of the United States, United States Copyright Office

<https://www.copyright.gov/title17/>

US Copyright Law – Circular 92, United States Copyright Office

<https://www.copyright.gov/title17/title17.pdf>

Section 106: Exclusive rights in copyrighted works

Section 107: Limitations on exclusive rights: Fair use

Section 108: Limitations on exclusive rights: Reproduction by libraries and archives

Section 110: Limitations on exclusive rights: Exemption of certain performances and displays

Copyright Basics, Circular 1, United States Copyright Office

<https://www.copyright.gov/circs/circ01.pdf>

Reproduction of Copyrighted Works by Educators and Librarians, Circular 21, United States Copyright Office

<https://www.copyright.gov/circs/circ21.pdf>

Fair Use Checklist, ALA Advocacy

<http://www.ala.org/advocacy/sites/ala.org.advocacy/files/content/copyright/FairUseChecklist.pdf>

CONTU Guidelines on Photocopying

<http://www.ala.org/advocacy/sites/ala.org.advocacy/files/content/copyright/GLsInterlibLoan.pdf>

Additional Copyright Resources

Frequently Asked Questions about Copyright

<https://www.copyright.gov/help/faq/index.html>

Copyright Clearance Center

<http://www.copyright.com/>

American Library Association: Copyright

<http://www.ala.org/advocacy/copyright>

The Campus Guide to Copyright Compliance for Academic Institutions

<http://www.copyright.com/Services/copyrightoncampus/>

The TEACH Act

<https://www.copyright.com/wp-content/uploads/2015/04/CR-Teach-Act.pdf>

The TEACH Toolkit, LSU

<https://www.lib.lsu.edu/services/copyright/teach/index>

Using Electronic Reserves

<http://www.copyright.com/wp-content/uploads/2015/01/Using-Electronic-Reserves.pdf>

Using Course Management Systems

<http://www.copyright.com/wp-content/uploads/2015/04/Using-Course-Management-Systems.pdf>

Making Works Available Through Course Management Systems, Rutgers

<https://www.libraries.rutgers.edu/copyright/making-works-available-through-course-management-systems-do-and-not-do>

Intellectual Property Issues for Faculty

<https://www.aaup.org/issues/copyright-distance-education-intellectual-property/resources-copyright-distance-education-and/intellectual-property-issues-faculty>

Digital Millennium Copyright Act, United States Copyright Office

<https://www.copyright.gov/legislation/dmca.pdf>

Glossary

<https://www.copyright.gov/comp3/docs/glossary.pdf>

This policy provides practical recommendations on copyright-related matters; however, it is not a substitute for legal advice, and proper legal advice should be obtained when necessary.