

Standard library practices for abiding copyright law with printed materials  
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January 8, 2003

I. Special library privileges:

Libraries and educational institutions enjoy certain liberties when it comes to the use of copyrighted materials. These liberties are described in Section 108 of the copyright law, and include:

- ?? Archiving lost, stolen, damaged or deteriorating works
- ?? Making copies for library patrons
- ?? Making copies for other libraries' patrons (interlibrary loan)

Libraries are also permitted unauthorised infringement of the copyright law under the Fair Use Doctrine, which is outlined in Section 107 of the copyright law. The Fair Use Doctrine places limitations on the rights of the copyright holder when application of the law impedes the production and use of works to the public (American Library Association, n.d.).

II. Curatorial practices for dealing with copyright of printed materials

- a. In general, curatorial practices are outlined in a library's copyright policy. Copyright policies usually make specifications based on type of library material (print, digital, multimedia), and type of use (course reserves, interlibrary loan, photocopying). Additionally, copyright policies usually include a set of procedures for library employees to follow in situations where it is uncertain whether permission from the copyright holder is needed or not. Training on copyright compliance and diligent record keeping make adherence to established laws a simpler prospect. Published procedures for requesting assistance with copyright situations beyond the average are recommended, as well (Texas State Library and Archives Commission, 2002).

III. Copyright policy (Harper, 2002):

- a. Determine copyright status of item:
  - i. Some categories of publications are in the public domain
    - 1. Publications dated 1922 or earlier.
    - 2. Works that do not include a copyright notice and were first published before January 1, 1978.
    - 3. Most United States government documents.
- b. To determine if use of item is fair, use the four-factor fair use test. Ask the following questions:
  - i. What is the character of use?
    - 1. Commercial use does not qualify as fair use.
  - ii. What is the nature of the work to be used?
  - iii. How much of the work will be used?

- iv. What effect would this have on the market for the original or for permissions if the use were widespread?
- c. Each of the following activities requires copyright vigilance. Use the following procedures to ensure copyright abidance:
  - i. Course reserves:
    - 1. Obtain permission for materials that will be used repeatedly by the same instructor for the same class.
    - 2. Limit materials to only what is needed:
      - a. Single chapter in a book
      - b. Single journal article
    - 3. Include copyright notice and any citation information.
  - ii. Photocopying:
    - 1. If a patron requests part of an article or book:
      - a. The copy must become the property of the patron.
      - b. The library should have no notice that the copy will be used for a purpose other than private study, scholarship or research.
      - c. The library should have both a display and order form "Warning of Copyright."
    - 2. If a patron requests a whole work:
      - a. Determine that a copy cannot be obtained at a fair price.
      - b. The copy must become the property of the patron.
      - c. The library should have no notice that the copy will be used for a purpose other than private study, scholarship or research.
      - d. The library should have both a display and order form "Warning of Copyright."
    - 3. Photocopy machines in the library
      - a. Section 108(f)(1) relieves the library of responsibility for unsupervised patron use of copying equipment located in the library so long as the library displays a notice that making copies may be subject to copyright law. Unlike the form of warning for patrons who request that the library make a copy for them, no particular form of notice that must be placed on or near copy stations is mandated.
  - iii. Interlibrary loan: A library is either the requestor or the responder
    - 1. Requestor
      - a. Determine that a copy cannot be obtained at a fair price.
      - b. The copy must become the property of the patron.
      - c. The library should have no notice that the copy will be used for a purpose other than private study, scholarship or research.

- d. The library should have both a display and order form "Warning of Copyright."
  - e. The library must not be aware or have substantial reason to believe it is engaging in related or concerted reproduction or distribution of multiple copies of the same material.
  - f. The library will maintain its records of the request for three years.
  - g. For periodicals, the library will pay royalties on any copy of a periodical article that exceeds the "suggestion of five." (I could not find anywhere what this means)
2. Responder
- a. It is standard practice for the responding library to request from the requesting library a statement of compliance with copyright law.
- iv. Reproduction of damaged or irreplaceable materials
- 1. For unpublished materials
    - a. Library's purpose must be preservation or security and it must have a copy of the work in its collection. Title 17 permits reproduction of unpublished records without securing permission from the copyright owner when the copying amounts to "fair use" of the material. Reproduction of unpublished records, however, may also be subject to special and additional copying restrictions imposed by the records creator or the donor. Therefore, before reproduction of any unpublished records can be permitted, it will be necessary to check acquisition files, contracts, deeds of gift, etc., to determine whether any special copying restrictions exist (University of California, 2002).
  - 2. For published materials
    - a. A library's purpose can only be to replace a copy it has or used to have in its collection, but which copy has been damaged, is deteriorating, lost or stolen or the format of which has become obsolete. Such published works also must be out of print.
  - 3. Print copies
    - a. It appears that the archiving right is designed to allow libraries to make one-of-a-kind and out of print books, manuscripts and periodicals available to other libraries.

## References

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