

SANTA CLARA UNIVERSITY
UNIVERSITY LIBRARY

Copyright Compliance Guidelines for E-Reserves and Online Course Materials

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Introduction

Faculty and instructors are responsible for ensuring that the course materials they post online comply with copyright law. To demonstrate the highest level of good-faith compliance with copyright law when sharing electronic course materials with your students, follow these steps:

Restrict access

Access to content must be restricted to authorized users and cannot be openly discoverable on the web. Use Camino (Canvas) to share course materials because it has functions that limit access to students enrolled in a class or specifically designated by the instructor.

Post a copyright notice

This example wording contains the basic requirements: *The copyright law of the United States (Title 17, United States Code) governs the use of copyrighted materials including copying and distribution. Fair use (Section 107) allows for limited use of copyrighted materials without the permission of the copyright owner. Individuals using copyrighted materials in excess of fair use may be liable for copyright infringement.*

Evaluate each work for copyright compliance every quarter

Santa Clara University Library recommends five ways to share electronic course materials in order to comply with copyright law:

- Link to licensed electronic materials (<https://libguides.scu.edu/copyrightcompliance#s-lg-page-section-7063208>) already purchased by the Library
- Link to openly accessible materials and open educational resources (<https://libguides.scu.edu/OpenAccess>)
- Post materials that favor fair use (<https://libguides.scu.edu/c.php?g=1120804&p=8173765#s-lg-box-26023300>)
- Obtain permissions (<https://libguides.scu.edu/copyrightcompliance#s-lg-page-section-7063219>) from copyright holders

Licensed Electronic Materials

Credits: Content derived from and inspired by [University of Washington's Step-by-Step Guide to Copyright Compliance](http://www.lib.washington.edu/types/course/instructors/compliance) (<http://www.lib.washington.edu/types/course/instructors/compliance>)

The University Library licenses a variety of electronic materials for research and course materials use. To find out if your readings are already licensed by the Library:

- Search OneSearch (<https://encore.scu.edu/>) or the library catalog, OSCAR (<https://sculib.scu.edu/>).
- If a reading is available electronically, you may link directly to that resource from Camino. Linking to articles (either publicly available or via the Library's databases (<https://libguides.scu.edu/az.php>)) is the best practice for sharing materials. See advice for creating stable links to resources (<https://libguides.scu.edu/c.php?g=559917&p=3851320#s-lg-box-wrapper-14050460>).

Creating Stable Links to Electronic Resources

Creating links to online resources instead of copying the files is one way that faculty and instructors can ensure copyright compliance.

SCU students, faculty and staff are identified as SCU users by the IP addresses of their workstations. From off-campus, SCU users will be prompted for their SCU network login to access resources when they are routed through the libraries' proxy server. To create stable links to journal articles from Camino (or another website) that will work appropriately both on and off-campus, you need to construct links to include this routing information.

1. Start with the proxy server prefix.

To route requests through the proxy server, you need to add the following prefix to the beginning of the article's stable link:

`https://login.libproxy.scu.edu/login?url=`

NOTE: The proxy prefix is only needed for SCU restricted journals and databases. Adding the proxy prefix to non-licensed resources may prevent access.

2. Add the web address for the article.

In most cases, you can navigate to the pdf, and copy the web address that displays in the browser's address bar (e.g. `http://www.nature.com/nature/journal/v408/n6809/full/408184a0.html`)

Example:

`https://login.libproxy.scu.edu/login?url=`

plus

`http://www.nature.com/nature/journal/v408/n6809/full/408184a0.html`

equals

`https://login.libproxy.scu.edu/login?`

url=<http://www.nature.com/nature/journal/v408/n6809/full/408184a0.html>

Open Educational Resources

3. Test the resulting url in another browser.

Open Educational Resources

Testing the web address in another browser (e.g. Safari or Firefox instead of Chrome) will tell you if the web address is stable, or if it includes code that makes the reading only accessible for your

Public library browser session. The exploration and use of Open Educational Resources (OERs) to reduce the cost burden of textbook and course materials for students. The William and Flora Hewlett

If it doesn't work, there are additional steps that you can try:

Foundation describes OERs as "teaching, learning, and research resources that reside in the public

domain. Search the web links to see if any of the links are broken. If you find a broken link, you can create a stable link for

re-purposing by others. Open educational resources include full courses, course materials,

modules, textbooks, streaming videos, tests, software, and web pages. Of course, there is a link to the

also support a degree program. [http://www.brown.edu/programs/education/open-](http://www.brown.edu/programs/education/open-educational-objects/)

educational-objects/ Use the DOI (Digital Object Identifier) for the article: Create a link by placing

<https://login.libproxy.scu.edu/login?url=http://dx.doi.org/> in front of the DOI. The stable link

Go to Santa Clara University Library's guide on Open Educational Resources

will look like <https://login.libproxy.scu.edu/login?url=http://dx.doi.org/10.1111/bioe.12084>

(<https://libguides.scu.edu/c.php?g=175811&p=1157199>) for more information and links to online

NOTE: The link created using the DOI sometimes directs people to a choice of sources for the article,

not all of which are available to SCU users

Public Domain

Questions?

Material in the public domain can be scanned and used for courses without copyright restrictions.

Library staff are available to help. Email eresources@scu.edu or call 408.283.2222.

University offers an excellent chart listing [copyright terms](http://copyright.cornell.edu/resources/publicdomain.cfm)

(<http://copyright.cornell.edu/resources/publicdomain.cfm>) and when materials pass into the public

domain. Content adapted from the [University of Washington Libraries](http://www.lib.washington.edu/types/course/instructors/compliance/linkingjournals)

(<http://www.lib.washington.edu/types/course/instructors/compliance/linkingjournals>)

Fair Use

Fair Use and the Four Factors

Fair use

Fair use is a facet of copyright law that allows copyrighted works to be used in certain ways without the copyright holder's explicit permission. Fair use guidelines provide a way for individuals to study, expand, reinterpret, and otherwise make use of copyrighted material in a way that does not infringe upon the copyright protections guaranteed to "authors and inventors" by article 1, section 8 of the U.S. Constitution.

Fair use is not easy to define and is subject to interpretation. While there is no exact formula for determining fair use, understanding the basic principles of fair use can help students and faculty use copyrighted material responsibly and effectively.

The four factors of fair use

To determine whether use of a work is within fair use, the law calls for a balanced application of four factors. The four factors are purpose, nature, amount, and effect. These four factors come directly from the fair use provision, Section 107 of the U.S. Copyright Act .

One guideline to follow is this:

If all 4 factors favor fair use	it is probably fair use
If 3 factors favor fair use	it is more than likely fair use
If only 2 factors favor fair use	it may be fair use but there is a risk involved
If only 1 factor favors fair use	it is not fair use

Consider each factor carefully before sharing copyrighted materials as course materials on Camino.

Factor 1: Purpose of the use

Is the use for a nonprofit educational purpose such as criticism, comment, teaching, scholarship or

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Obtaining Permissions

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If a reading is not licensed or in the public domain and the use is not fair, instructors must get permission from the copyright holder in order to use it as a course reading. There is one primary service on campus that helps faculty with obtaining permissions.

Factor 2: Nature of the Work

Put the readings in a printed course pack via the SCU Bookstore (<http://scu.bncollege.com/>). The cost of copyright royalties and the cost of printing the material is passed on to the students.

Concepts to consider:

Use of a work that is commercially available specifically for the educational market is generally disfavored and is unlikely to be considered a fair use.

Courts are usually more protective of art, music, poetry, feature films, and other creative works than they might be of nonfiction works.

Course Reserves Contacts

Factor 3: Amount of the portion used

Jesse Randolph, Customer Experience Supervisor

libraryreserve@scu.edu (<mailto:libraryreserve@scu.edu?subject=Course%20Reserves%20Question>)

Is the amount used a relatively small portion of the total work?

Concepts to consider:

Sarah Smith (<mailto:ssmith7@scu.edu?subject=copyright%20question>), Head of Access & Delivery Services

- Copyright law does not set exact quantity limits, generally the more you use, the less likely you are within fair use.
- A book chapter might be a relatively small portion of a book, but if the same content might be published elsewhere as an article or essay and could be considered the entire work in that context (such as a chapter in an edited volume), the less likely it is to be considered fair use.

Factor 4: Effect of the use on the value of the work

Does use of the work have a effect on the market value of the works and does it deprive the copyright holder of revenue?

Concepts to consider: Additional Resources

- If you could have realistically purchased or licensed the copyrighted work, that fact weighs against a finding of fair use.
- **Association of Research Libraries Know your copyrights** (<https://www.arl.org/know-your-copyrights/>)

What if use doesn't appear to favor fair use?

- **Legal and Ethical Considerations for Providing Access to Born-Digital Collections: Copyright** (<https://www.diglib.org/legal-and-ethical-considerations-for-providing-access-to-born-digital-collections-copyright/>) from the Digital Library Federation

If the answer to 2 or fewer of these questions is no, then you may be at risk for violating copyright compliance. If you are unsure if use of a work is fair use, you have a few options:

- Ask for help from the Library with obtaining permissions

FAQs and Additional Resources

FAQs about Fair Use, Course Reserves, and Posting Materials on Camino

I want to post a pdf of a scanned chapter from a book published in 1985 to my course page in Camino. It's legal to do that because my course page is password-protected and only my students can see it, right?

Putting a scanned article or chapter behind a password-protected system like Camino is not necessarily a protection against copyright infringement. At least 3 or more of the four factors of the work and its use still need to favor fair use.

I can upload a copy of my own article that I published in the Journal of Religious Studies as a pdf in Camino because I wrote it, right?

Not necessarily. It depends on the contract you signed with the publisher.

I'm teaching a class that is entirely online for distance learners.

Distance learning is generally covered by the TEACH Act. [This is an article \(https://blogs.loc.gov/copyright/2020/03/teaching-from-a-distance-and-copyright-considerations/\)](https://blogs.loc.gov/copyright/2020/03/teaching-from-a-distance-and-copyright-considerations/) about online learning and copyright considerations.

Last Updated: Feb 10, 2023 10:26 AM | **URL:** <https://libguides.scu.edu/copyrightcompliance> |  Print Page

Login to LibApps (https://scu.libapps.com/libapps/login.php?site_id=1262&target64=L2xpYmd1aWRlcy9hZG1pbl9jLnBocD9nPTk3Njg4NCZwPTcwNjMxODc=)