

Informational Session on Copyright and Fair Use

Steve Oberg – Buswell Library
October 2019



What we will cover

We will cover five areas

- Context for current changes
- Highlights of what has changed
- Review of questions that have been asked, along with answers
- Other questions or comments?
- Available resources to help

Context for changes

Why now?

Campus bookstore changes (switch to Follett and LAD)

Departure of Lisa Richmond, original author of the Wheaton College Copyright Guide

Review with campus legal counsel, Chief Information & Campus Services Officer, and Buswell Library

Highlights of changes

An updated guide

A revised Wheaton College Copyright Guide is available at

<https://library.wheaton.edu/copyright/>

What has changed?

1. The copyright guide has been reviewed by campus legal counsel
2. Readings for course packs will go through copyright permission process and any associated fees will be reflected in price
3. Schoology remains an option but Fair Use is no longer defined as a formula (e.g. “if $\leq 20\%$ of a book or \leq five articles, it’s Fair Use”)

Some more detail

You are strongly encouraged to link out from Schoology to online resources available through the library or on the internet whenever possible.

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The library is available to assist and explore alternatives whenever possible.

The Fair Use criteria

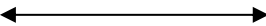
PURPOSE

NATURE

AMOUNT

EFFECT

Purpose

Fair Use more likely  **Fair Use less likely**

- Teaching (including multiple copies for classroom use)
 - Research or scholarship
 - Nonprofit educational institution
 - Criticism or comment
 - News reporting
 - Parody
 - Transformative or productive uses (changes the work for new utility)
 - Restricted access (to students or other appropriate group)
- Commercial activity
 - Profiting from the use
 - Entertainment
 - Bad-faith behavior
 - Denying credit to original author

Nature

Fair Use more likely ← → **Fair Use less likely**

- Published work
 - Factual or nonfiction based
 - Important to favored educational objectives
- Unpublished work
 - Highly creative work (art, music, novels, films, plays)
 - Fiction

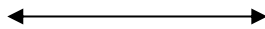
Amount

Fair Use more likely ↔ **Fair Use less likely**

- Small quantity
 - Portion used is not central or significant to entire work
 - Amount is appropriate to favored educational purpose
- Large portion or whole work used
 - Portion used is central to work or the “heart of the work”

Effect

Fair Use more likely

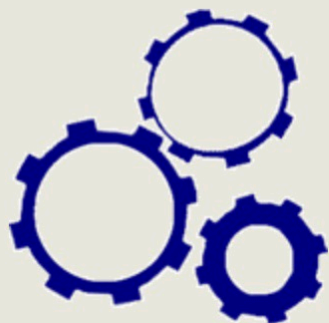


Fair Use less likely

- User owns lawfully acquired or purchased copy of original work
 - One or few copies made
 - No significant effect on the market or potential market for copyrighted work
 - No similar product marketed by the copyright holder
 - Lack of licensing mechanism
- Could replace sale of work
 - Significantly impairs market or potential market for work or derivative
 - Reasonably available licensing mechanism
 - Affordable permission available for using work
 - Numerous copies made
 - You made it accessible on the internet or other public forum
 - Repeated or long-term use

Fair Use Evaluator

<https://librarycopyright.net/resources/fairuse/index.php>



Fair Use Evaluator

What this tool can do for you:

- Help you better understand how to determine the "fairness" of a use under the U.S. Copyright Code.
- Collect, organize & archive the information you might need to support a fair use evaluation.
- Provide you with a time-stamped, PDF document for your records [\[example\]](#), which could prove valuable, should you ever be asked by a copyright holder to provide your fair use evaluation and the data you used to support it. [\[why is this important?\]](#)
- Provide access to educational materials, external copyright resources, and contact information for copyright help at local & national levels.



Make a Fair Use Evaluation



Learn More about Fair Use

Questions and answers

Question #1

We already link out to the library for articles in our dept. courses when possible. What about book chapters or articles not available via Buswell? Can we load any to Schoology? Limits? If we're required to do course packs, how do we get this to distance students, especially those overseas?

Question #2

Do we have to pay the Copyright Clearance Center for things we put in Schoology? (if students don't otherwise have access to the content)

Question #3

Policies about posting on Schoology.

Question #4

What constitutes fair use of video materials owned by the College?

Question #5

I use some articles from Christianity Today for my class and am hoping there is a link to those through the library. Also, I have some primary sources that I originally purchased in Southeast Asia/Oceania that I have drawn from. I also use some Native American material from a book that is no longer in print; I know there is other online material from him but I have yet to search that out... What is the policy for out-of-print books?

Question #6

What are the differences (if any) between posting a pdf of a book chapter on Schoology, printing copies of book chapter for students, and making the book available to students to make their own copy? Which of these options need copyright permission?

Question #7

Is the student per reading copyright charge for readings posted on Schoology (without links) the same as for the same reading included in a LAD coursepack? If not, would it be more likely lower or higher? Is this charge passed directly on to Schoology users or absorbed (in part) by the Buswell budget?

Are there other LEGAL ways to make required readings available to students free of charge, such as returning to Buswell course reading reserve folders, emailing them directly to students, or assigning a TA to gather the course readings which students can then copy or scan?

Question #8

Is it considered fair use to make a copy of a single journal article for each student in the class (~10 students) to bring to class for discussion or do students need to access and print their own copy from a library link?

Question #9

I would like to post a chapter from a book on Schoology for my class, and/or include it in a Manual. Must this be done the semester prior in order for the Bookstore to assess copyright fees to be charged to the student? What about finding something very recent or current and making it available to students?

What about readings from international sources? in my discipline most of the primary readings are copyrighted in Spain or Latin America. Many of them are from previous centuries. What is the expiration date/ statute of limitations (I am not even sure of the correct vocabulary to use).

Question #10

Student costs weigh heavily on faculty when selecting course materials. I am concerned that Follett and/or LAD have yet to make available a clear set of guidelines for ... interpretation of fair use/copyright ... this lack of clarity undermines faculty ability to choose cost effective materials for our students ... :

1. What percentage (or how many pages) can I assign of a single authored text on Schoology?
2. What percentage (or how many pages) can I assign [o]f an edited text on Schoology?
3. How many articles can I post on Schoology?
4. When will Follett and/or LAD make its copyright policy available to faculty?

Question #11

We use many articles from hard-to-find journals, some from other continents. Are copyright payments also (actually) made to journals in Ghana, Uganda, India, etc.? For materials we use that do not have any copyright (public access, workshop materials rather than academic publishers) restrictions, can we freely use? We have strong relationships with many of our authors. In what/all cases can a letter from the author remove an article or book portion from needing to pay publisher royalties? For such a letter, do we need to get those annually, or can we request that it be 1) in perpetuity or 2) for a given time frame (e.g., 5 years)?

Question #12

Using a chapter from a book that is unavailable (only a few copies listed on Amazon) published in New Zealand (I will bring it with me)

An out-of-print booklet published by Wiconi Press (I will bring it with me)

Question #13

How many pages / what percent of books can you provide? What about single Journal articles? What about loaning books and scanning books you personally own so that I can underline and mark up but still have a book to loan out?

Question #14

For small seminar courses that heavily use individual book chapters, is it possible to put copies of the chapters on library reserve without charging fees to students?

Other questions?

Help for creating persistent links

The library has created a helpful guide for creating persistent links from online library resources at

<https://library.wheaton.edu/persistentlinks>

See AIT for assistance with Schoology issues

x4357 or ait.service.desk@wheaton.edu

Help from subject librarians

Subject librarians are available for first line of support with copyright issues.

<https://library.wheaton.edu/librarians/>

College's designated copyright person

Steve Oberg

x5852

steve.oberg@wheaton.edu

Steve is also the official campus DMCA Agent.
More information in copyright guide or at

<https://www.wheaton.edu/about-wheaton/disclosures/copyright-infringement/>

What else is being planned?

- A new section in the guide on the TEACH Act, which focuses specifically on distance education and provides additional exemptions to copyright that are allowed for online courses
- Additional example scenarios as well as more online documentation
- As wide a distribution of Q&As as possible (including these slides)
- Set up smaller, departmental meetings to brief you on copyright issues as desired



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