

Forrest R. Polk Library
University of Wisconsin Oshkosh

**Policy for Reserve Access to Published Copyrighted Materials
Revised, August 2002**

LIBRARY POLICY

The library policy for the reserve reading services is derived from the fair use provisions of United States Copyright Act of 1976. Section 107 of the Copyright Act that expressly permits the making of multiple copies for classroom use. Such educational copying is one of six examples of uses, which do not require the payment of a royalty or the permission of the copyright owners provided that the circumstances of the use are fair as assessed by the four factors in section 107 of the Copyright Act, the text of which is as follows:

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified in that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research, is not an infringement of copyright.

In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

- 1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit education purposes;*
- 2. the nature of the copyrighted work;*
- 3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and*
- 4. the effect of the use upon the potential market for or value of the copyrighted work.*

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors. (17 USCA 107, current through P.L. 106-580, approved 12/29/00)

Polk Library's collections as well as the collections of other University of Wisconsin libraries are purchased for the nonprofit educational use of students and faculty. All library materials are acquired with the understanding that there will be multiple uses of a limited number of copies. The library frequently pays a premium institutional subscription price for journals. This price is many times the individual subscription price, for the privilege of supporting multiple academic users. The purpose of the reserve system will be to supplement course readings and facilitate the making of multiple copies for classroom use by students. Considered within this context, UW Oshkosh and other UW System libraries in a manner that conforms to the plain language of the fair use provisions of the copyright law can develop reserve services.

An item will be removed from reserves if the copyright holder objects to its inclusion on reserves and refuses to grant permission for its use. Polk Library reserves the right to consult with the University of Wisconsin System Legal Counsel to determine whether the item can be considered for fair use.

GENERAL PRINCIPLES

1. All use of materials placed on reserves will be at the initiative of faculty solely for the non-commercial, educational usage of students as a supplement to principal course readings.
2. When possible, materials to be copied or scanned for electronic reserves will be purchased by the library.
3. Longer works, such as complete books, will not be copied for electronic reserve service. In addition, audio clips, video clips or art displays will not currently be placed on electronic reserve.
4. There will be no charge for access.
5. Copyright notice will appear on screen in the online reserve system and on copies made of reserve readings to indicate that copyright law may cover materials.
6. Materials on reserve will be accessible by instructor name, course name, course number and department.
7. Off campus access to electronic reserve will be restricted to currently enrolled students, students taking a distance education class from a UW Oshkosh instructor and university faculty and staff. Other measures may be introduced to assure that only students in a specific class have access to the reserve materials for the respective course.
8. Electronic files will be removed from the active reserve system when they are no longer used for reserve services.
9. The library will follow the principles of fair use when placing materials on reserve.
10. The Copyright Act 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. The library may require evidence that no restrictions exist for certain materials.
11. When considering placing unpublished works by students on Reserve, please make sure to secure permission from the student in writing.
12. Polk Library Reserve staff will be happy to explain specific procedures regarding Reserves.

The electronic copying and scanning of copyright-protected works for library reserve service are unsettled areas of the law which may be addressed by the Supreme Court or in future revisions of the copyright law. Polk Library will monitor legal developments that may affect the fair use analysis of reserve services to ensure that library services are in compliance with the United States Copyright Law. Therefore, this policy and these procedures are subject to change. Any changes in this policy will be posted on the library's web pages.

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