

**The LSU Libraries
Copyright Compliance Policy 8**

Revised 2007

The Copyright Policy Taskforce

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Table of Contents

- I. Introduction
- II. Fair Use and Libraries
- III. Association of Research Libraries (ARL) and Copyright
- IV. Mediated Copying
- V. Unmediated Copying, Printing
- VI. Library Reserve Materials
- VII. Digital Audiovisual Reserve
- VIII. Interlibrary Borrowing and Lending
- IX. Digital Millennium Copyright Act
- X. A Summary of Current Database Legislation
- XI. Unpublished Records
- XII. Oral Histories in the T. Harry Williams Center for Oral History
- XIII. Theses and Dissertations
- XIV. Copying for Archival and Preservation Purposes
- XV. Special Collections Digitization
- XVI. Making Copies for Addition to LSU Libraries Collection
- XVII. Copyright Protection for Library Publications

LSU Libraries Copyright Compliance Policy

Section I: Introduction

The purpose of this policy is to state the responsibilities of LSU Libraries and library users regarding copyright and to ensure that all library units remain in compliance with United States copyright law (Copyright Revision Act of 1976, the Digital Millennium Copyright Act (DMCA) and the Copyright Term Extension Act, both passed in 1998).

Unless otherwise specified, this policy applies to all formats of copyrighted materials, including but not limited to monographs, periodicals, music, microforms, manuscripts, photographs, audiovisuals, software, and network accessible resources.

Section II: Fair Use and Libraries

[http://fairuse.stanford.edu/Copyright and Fair Use Overview/chapter9/index.html](http://fairuse.stanford.edu/Copyright%20and%20Fair%20Use%20Overview/chapter9/index.html)

<http://www.copyright.iupui.edu/checklistintro.htm>

Section III: Association of Research Libraries (ARL)

ARL is a nonprofit organization of 123 research libraries (<http://www.arl.org/members.html>) at comprehensive, research-extensive institutions in the US and Canada that share similar research missions, aspirations, and achievements. ARL is a membership organization and operates as a forum for the exchange of ideas and as an agent for collective action.

Research libraries are particularly concerned about the impact of copyright practices on scholarly communication and the dissemination of information. ARL has joined with others in the higher education and research communities to promote barrier-free access to information while exploring ways to protect authors' rights to their intellectual property.

As an ARL member, the LSU Libraries seeks to stay informed of ARL activities and related issues in the sphere of copyright and intellectual property. The ARL Copyright and Intellectual Property Policy home page contains useful copyright and intellectual property information. (<http://www.arl.org/sc/copyright>).

Section IV: Mediated Copying

Mediated copying refers to copy work that library staff perform as a service for patrons. Because copy machines are readily available in the Libraries, staff will only make copies for patrons with disabilities or for materials from LSU Libraries' collections to be used for library services such as Reserve, Interlibrary Loan, Special Collections, etc., subject to Section 108a of the Copyright Law (<http://www.copyright.gov/title17/92chap1.html#108>). Abiding by the following guidelines, the LSU Libraries may provide reproductions in a full range of formats, whether produced in-house or at the Libraries' request through cooperative projects or commercial vendors.

- A. Notification of Copyright Regulations.
 1. Each reproduction made by LSU Libraries' staff will bear the following notice:

NOTICE: This material may be protected by Copyright Law (Title 17, US Code).

2. A sign bearing the following notice will be placed at all service points where copies are requested:

The copyright law of the United States (Title 17, US Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

2. Request forms for copying will bear similar notice.
3. The above notice will be included with all completed photoduplication orders.

B. Restrictions on Copying of Published Materials. (See also Section V. Unmediated Copying.)

1. Published works will not be reproduced in their entirety unless they are in the public domain, out-of-print or otherwise unobtainable at a fair price.
2. Multiple copies will not be made except as required for reserve. (See also Section VI. Library Reserve Materials.)
3. Units which do mediated copying are free to impose other restrictions as necessary to protect the collections of LSU Libraries.

Section V: **Unmediated Copying & Printing**

- A. Photocopy machines for use by the public are available in the LSU Libraries and maintained by Graphic Services.
- B. Public Printers for use by the public are available in the LSU Libraries and maintained by Information Technology Services.

Section VI: **Library Reserve Materials**

This policy is derived from the fair use provisions of the Copyright Act and applies to all LSU Libraries= reserve units except where noted. Its purpose is to inform library users of copyright requirements and to assure that the Libraries complies with U.S. copyright law.

- A. General Guidelines for Reserve and Electronic Reserve Materials.
 1. In support of classroom instruction, the LSU Libraries= reserve units will place materials on course reserve that comply with copyright law and this policy, its guidelines, and procedures.
 2. These guidelines and recommendations apply to all reserve materials and units except in units proscribing reserve policies specific to their area (Section VII., Digital Audiovisual Reserve).

3. The LSU Libraries recommends that all faculty provide their classes with access to reserve materials via *Semester Book*, *Blackboard*, or other LSU course management systems that ensure secure access to reserve materials. Faculty can create links to electronic materials owned or subscribed to by the LSU Libraries through these systems, thereby establishing an easy, central means by which students can access course-related materials. Such systems restrict access to LSU students officially registered for specific classes. Materials are no longer accessible when the classes end. These systems comply closely with existing fair use factors and provide for the nonprofit use of material/information in an educational setting and, in this case, in a virtual classroom.©
 4. In the event that other campus departments may be operating their own reserve systems, apart from the LSU Libraries, those systems are not within the purview of the Libraries. Responsibility for copyright compliance in departmental systems resides with the departments and the University.
- B. General Policies for Reserve and Electronic Reserve Materials.
1. All materials placed on regular or electronic reserve will be at the initiative of faculty or staff solely for the non-commercial, educational use of students in specified educational programs.
 2. Materials to be copied or scanned for electronic reserve will be from the LSU Libraries= collection or may be purchased and added to the collection if available, if the material is appropriate for the collection, and if funds permit.
 3. Textbooks will not be purchased for reserve use.
 4. Lengthy works will not be copied for electronic reserve.
 5. Copies of articles provided for reserve must include complete bibliographic information and copyright clearance as needed. Examples of appropriate/inappropriate materials follow in Section VI. D and E.
 6. Copyright notices will appear on screen in the online reserve system and on copies made of reserve readings indicating that materials may be covered by copyright law.
 7. During the semester in which the course is offered, reserve materials may be accessed by course name, course number, and/or faculty depending on the system used.
 8. Electronic reserve files will be unavailable at the end of each semester and/or when the class is not in session.
 9. Factors favoring or opposing fair use follow in Section VI. C. These arguments may be helpful to faculty in determining whether permission of the copyright holder is required or that the protected material complies with fair use provisions and does not require permission.
- C. Examples of Permissible Reserve Materials.
1. Monographs (library or personal copies) and original personal papers submitted by LSU instructional faculty or staff (hereafter referred to as "instructors"). The number of copies of monographs accepted for reserve will depend on the class size, quantity of reading required from an item, and availability of copies. Placement of multiple copies on reserve must be cleared with the head of the appropriate reserve unit.
 2. Faculty members= personal copies of textbooks that do not bear use restrictions conflicting with the Libraries= reserve guidelines.
 3. Textbooks that are available in the Libraries= collections. Textbooks will not be purchased for reserve use.
 4. Mixed format material not restricted by copyright licensing rules.

5. Reproduced portions of LSU Libraries= materials that fall within the definitions of fair use will be placed on reserve and e-reserve as needed.
6. Photocopies of materials not owned by the LSU Libraries may be placed on reserve one semester only without permission of the copyright holder.
7. Photocopies outside fair use for which instructors have obtained copyright clearance.

D. Examples of Inadmissible Materials.

1. Copies of a substantial portion of a work.
2. Photocopies of materials not owned by the LSU Libraries. These may not be placed on reserve for more than one semester without the permission of the copyright holder.
3. Copies of Aconsumable@ materials such as workbooks, standardized tests, etc.
4. Reading packets, coursepacks, or anthologies compiled by the instructor. These items cannot be placed on library reserve because their copyrights are not intended for library reserve use. Instructors should use the LSU Bookstore to make packets available for purchase by students.

E. Securing Copyright Clearance.

1. Instructors are responsible for securing copyright clearance on all reserve materials which fall outside the protection of fair use provisions.
2. LSU Libraries= reserve units have the right to require proof of copyright clearance for materials that are not part of the Libraries= collections.
3. Copyright clearance may be obtained from the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923/ Tel: 978-750-8400/
<http://www.copyright.com/> .

F. Availability of Reserve Material.

The reserve period will coincide with course schedules. Copied/scanned materials will be unavailable when classes conclude each session, and/or when courses are not slated.

G. Potential Changes to this Policy.

Because of unresolved issues regarding materials being placed on electronic reserve, the LSU Libraries will continue monitoring legal developments. The Libraries reserve the right to revise the policies and guidelines to bring them into compliance with future provisions.

Section VII: **Digital Audiovisual Reserve**

A. General Policies.

1. All digital copies made from audiovisual materials for reserve must be in compliance with fair use provisions, the guidelines in this document, and the guidelines of the Music Library Association.
<http://www.copyright.gov/docs/regstat121201.html>).

2. Music Resources staff will be responsible for producing audiovisual copies.
 3. The copyright notice will appear on screen in the online reserve system.
- B. Access.
1. Access to digital copies of audiovisual materials must be through campus-restricted networks.
 2. Access to digital copies from outside of the campus is limited to individuals who have been authenticated; namely, students enrolled either in a course or in formal independent study with an LSU instructor. Access will be provided through *Semester Book* or similar LSU systems.
- C. Digital Copies.
1. Digital copies will be made only of works that are being taught in the course of study.
 2. Digital copies may be made of whole movements or whole works.
 3. Either the LSU Libraries or the course instructor must own the original that is used to make the digital file. The Libraries will make a good faith effort to purchase a commercially available copy of anything that is provided by the instructor.
- D. Availability.
- The Libraries will remove access to the files at the completion of the course.

Section VIII: Interlibrary Borrowing and Lending

The LSU Libraries provides Interlibrary Borrowing services for current LSU faculty, research staff, and students who are unable to obtain needed materials in all formats from the existing Libraries= collections. In turn, the Libraries lend materials to other libraries to meet their research needs. As the borrower, the Libraries must abide by copyright law and comply with the following guidelines used by most like-sized institutions:

- A. Interlibrary Borrowing.
1. LSU as the borrowing library bears primary responsibility for complying with copyright law.
 2. Photocopies and/or reproductions in other formats become the property of the patron.
 3. The copy will not be used for a purpose other than private study, scholarship or research.
 4. The library will have a [Warning of Copyright](#) displayed on the item.
 5. The library must not be aware of or have substantial reason to believe that it is engaging in related or concerted reproduction or distribution of multiple copies of the same material.

6. In the event that requestors place multiple orders for articles from the same journal title, the library will attempt to fill those orders in compliance with copyright law but may pay royalties on any copy of a periodical article that exceeds the suggestion of five.¢
7. The borrowing library will maintain records of requests for three years.
8. Entire periodical issues, issue copies, or whole copies of books will not be requested from other libraries unless they are otherwise unavailable and cannot be purchased or accessed at a fair price.

B. Interlibrary Lending.

1. As the responding library, the LSU Libraries does not bear primary responsibility for compliance with copyright law but does reserve the right to request a statement of compliance with copyright law from libraries ordering materials.
2. LSU Libraries will not knowingly disregard copyright law when making copies for another library.
3. The LSU Libraries must not be aware of or have substantial reason to believe that it is engaging in related or concerted reproduction or distribution of multiple copies of the same material for borrowing institutions.
4. When licenses on electronic full-text databases do not provide for interlibrary lending or for copying pieces requested on ILL by other libraries, the Libraries must comply with those proscriptions.
5. Notice of copyright regulations will be included with all copies supplied to other libraries.

B. Document Delivery:

The LSU Libraries provides document delivery via two systems:

1. Unmediated from Ingenta whereby faculty, researchers, and graduate students place their own orders which include royalty fees and are subsidized by the Libraries in accordance with Libraries= document delivery policies available at <http://www.lib.lsu.edu/collserv/ilb/Policy.html> .
2. Mediated whereby Interlibrary Borrowing places orders with vendors not offering unmediated gateways; these vendors= rates also include royalty fees and are subsidized, as proscribed by the Libraries= document delivery policies, by the Libraries for faculty, research staff, and students.

Section IX: Digital Millennium Copyright Act

http://fairuse.stanford.edu/primary_materials/legislation/dmca.html

Section X: A Summary of Current Database Legislation

http://fairuse.stanford.edu/primary_materials/legislation/index.html

Section XI: **Unpublished Materials:**
Manuscripts, Archives, Photographs, Other Unpublished Works

A. Status.

Copyright to manuscripts in the Louisiana and Lower Mississippi Valley Collections (LLMVC) is retained by the copyright holder unless it has been legally conveyed to the LSU Libraries or copyright has expired and the item is in the public domain. State of Louisiana records, including University Archives, are in the public domain. http://www.copyright.cornell.edu/training/Hirtle_Public_Domain.htm shows when unpublished works pass into the public domain.

B. Fair Use.

As with published works, Section 107 of Title 17 permits use of unpublished records, including but not limited to reproducing those works, without securing permission from the copyright owner when the requested use amounts to fair use of the material. See Section II.C.1 through 3 of this document for an explanation of these four factors. http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter9/index.html

C. Reproduction.¹

1. Guidelines. (See also the Special Collections Photoduplication Policy <http://www.lib.lsu.edu/special/dupl.html>.)

a. As a department that routinely provides mediated copying, it is incumbent on Special Collections to evaluate whether requested reproductions of copyright works exceed the use allowed under the fair use exemption. Consequently, the department reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law. Amount and substantiality of the portion requested to the collection as a whole are not the only criteria for determining fair use, but generally, Special Collections will reproduce no more than 10% of a collection containing copyrighted works. Curators or the Head of Public Services may allow more or less after considering the four factors of fair use.

Staff also reserve the right to deny requests based on preservation considerations, as well as any restrictions imposed by the records' creator or donor and demands on staff time and resources. Requests for reproductions of materials in the public domain will be granted or denied based on these same factors.

b. When Special Collections cannot provide reproductions within fair use provisions, patrons will need to provide written authorization for photoduplication from the appropriate copyright holder before staff will initiate a photoduplication order. The requestor will be provided with available information regarding ownership and a description of basic procedures for acquiring permissions. Ultimately, however, it is the responsibility of the requestor to obtain all permissions and to comply with Title 17.

¹As the copyright statute is neutral in regard to how a work is reproduced, unless otherwise indicated “reproduction” in this policy will mean photoduplication, digital capture, making a photoprint or slide, or microfilming.

- D. Permission to publish.
 - 1. Use of reproductions.
 - a. Reproductions are provided for personal research purposes only. They may not be copied, distributed, or deposited in another repository without the permission of the LSU Libraries Special Collections.
 - b. By providing reproductions of materials from Special Collections, the LSU Libraries does NOT grant permission to publish, broadcast, or exhibit in traditional forms or through digital technology. Permission to publish must be obtained through the procedures outlined in the Special Collections Photoduplication Policy <http://www.lib.lsu.edu/special/dupl.html>.
- E. See also Section XIII, **Theses, Dissertations, Undergraduate Final Papers and Projects**

Section XII: **Oral Histories in the T. Harry Williams Center for Oral History**

Copyright in the majority of oral history interviews contained in the T. Harry Williams Center for Oral History collection has been transferred to the Center or the LSU Libraries. Therefore, the Libraries will copy an interview recording and allow self-service copying of the transcript. In some instances, interviewers or interviewees may have retained copyright for themselves or placed other restrictions on the use of the interview and those are on file with the Center. As with other unpublished records, reproduction is then also subject to those restrictions.

Patrons wishing to publish or broadcast portions of interviews should consult Section XI.B and the Special Collections Photoduplication Policy <http://www.lib.lsu.edu/special/dupl.html> .

Section XIII: **Theses, Dissertations, Undergraduate Final Papers and Projects**

- A. LSU masters' theses, doctoral dissertations, research reports, senior theses, final projects, and similar works are unpublished, copyrighted works. Copyright of these works resides with the former student, not with the University.
- B. Theses
 - 1. Pre-2001: For theses written before 2001 reproduction release forms from the authors were *usually* obtained and are kept on file in the LSU Libraries Special Collections. In cases where Special Collections does not have a release, they will contact the author for a reproduction release form when copies are requested and keep those forms on file. Contact Special Collections for copies.
 - 2. 2001 – present: All LSU theses and dissertations since 2001 are available electronically at <http://etd.lsu.edu>
- C. Dissertations
 - 1. Pre-1955: Authors of dissertations and other items written before 1955 are contacted by Special Collections and asked to complete a reproduction release form when a patron requests a copy. Reproduction release forms are kept on file in the LSU Libraries Special Collections. Contact Special Collections for copies.

2. 1955 – present: Contact Proquest University Microfilms International (UMI) in Ann Arbor, Michigan for copies of dissertations written since 1955.
http://il.proquest.com/products_umi/dissertations/ *Dissertations written since 2001 are also available electronically at <http://etd.lsu.edu>*

D. Research Reports, Senior Theses, Final Projects, etc.

Copies of some other unpublished LSU works such as undergraduate final papers & projects, research reports, and senior theses, are in Special Collections, who will contact the author for a reproduction release form when copies are requested and keep those forms on file.

E. See also Section XI, **Unpublished Materials: Manuscripts, Archives, Photographs, Other Unpublished Works**

Section XIV: Copying for Archival and Preservation Purposes

Abiding by the following guidelines, the LSU Libraries will engage in preservation reproduction in the full range of formats, whether produced in-house or at the Libraries' request through cooperative projects or commercial vendors.

A. Preservation Reproduction: Exceptions Applicable to Preservation

1. Unpublished works shall be reproduced subject to Title 17, Sect. 108b_ (<http://www.copyright.gov/title17/92chap1.html#108>), as amended in Section 404 of the Digital Millennium Copyright Act (<http://www.copyright.gov/docs/regstat121201.html>).
2. Published works shall be reproduced subject to Title 17, Sect. 108h (<http://www.copyright.gov/title17/92chap1.html#108>).

B. Replacement Reproduction: Exceptions Applicable for Replacement.

1. Missing or damaged parts of a copyrighted, published work or an entire copyrighted, published work shall be reproduced subject to Title 17, Sect. 108c (<http://www.copyright.gov/title17/92chap1.html#108>), as amended in Section 404 of the Digital Millennium Copyright Act (<http://www.copyright.gov/docs/regstat121201.html>).

C. Limitations on exclusive rights: Computer programs.

1. Libraries are permitted to make an additional copy or adaptation of copy as prescribed in Title 17, Sect. 117 (<http://www.copyright.gov/title17/92chap1.html#117>).

Section XV: Digital Surrogates in the LOUISIANA Digital Library

LSU Libraries Special Collections creates digital surrogates of materials from the Libraries collection via the LOUISIANA Digital Library (LDL). LSU Libraries and University copyright policies are applicable to digitized materials. The LSU Libraries adheres to the following guidelines with respect to digitizing materials in Special Collections:

A. All items selected for digitizing must be

1. in the public domain, or
2. their copyright holders must have given permission for their inclusion in the LDL, or

3. the materials are published and in the last twenty years of copyright, as allowed in Title 17, Sect. 108h (<http://www.copyright.gov/title17/92chap1.html#108>)
- B. For materials that are still copyrighted but for which the copyright holder is unidentifiable or deceased, Special Collections staff will make a good faith effort to identify copyright holders and secure permission. When such is unavailable, Special Collections will use best practices and weigh the risk of infringement against the benefit to the scholarly community and general public.
- D. A statement of a digital surrogate's copyright status will be included in the "Copyright" field of each record in the LDL. Links to applicable copyright restrictions and permission to publish information will also be included in the digital record. Permission for use of digital surrogates must be requested from the LSU Libraries through the process outlined in the Special Collections Photoduplication Policy (<http://www.lib.lsu.edu/special/dupl.html>).

Section XVI: **Making Copies for Addition to LSU Libraries Collections**

The following policies relate to materials in any medium with a copyright date within the last 75 years. If no copyright agreement has been made between the United States and the country of publication, libraries are free to copy copyrighted materials without securing permission.

A. Copying for Addition to the Libraries= Collection.

Normally LSU Libraries= units do not add to the collection by making a copy rather than acquiring the original. Only under the following circumstances will the library add copied material to its collection:

1. A reasonable effort has been made to obtain a copy in acceptable condition and at a fair price and
2. Permission has been obtained from the publisher or copyright owner; or
3. Material is in the public domain.

Based on Sect. 108 of the Copyright Act (<http://www.copyright.gov/title17/92chap1.html#108>), The LSU Libraries will use the following definition of Areasonable effort@: Current publication lists or distributors in a particular medium must be consulted in order to find the copyright holder. At least one attempt must be made to obtain permission. The library will request from the appropriate Copyright Office or publisher the address of the copyright holder. A record of all relevant efforts must be maintained.

B. Replacement Copying.

1. Missing or damaged parts of a published work covered by copyright:

For small amounts of work, a copy may be acquired and substituted for the missing or damaged part without obtaining permission or checking for availability.

2. Entire published work covered by copyright:

If an entire work must be replaced due to damage, deterioration or loss, and if the library has "after a reasonable effort, determined that an unused replacement cannot

be obtained at a fair price", the library may make one copy for replacement purposes without having to obtain permission from the copyright holder (Title 17, Sect. 106e, <http://www.copyright.gov/title17/92chap1.html#106>).

C. Preservation Copying.

Copies of published and unpublished materials may be made for purposes of preservation and security unless otherwise restricted. Permission must be obtained when necessary even for copying done for preservation.

D. Special Considerations for Copying Audiovisual Materials, Computer Programs and Data Files.

Certain materials are used with a machine interface, and are therefore susceptible to damage or distortion. The following guidelines highlight those sections of the law that pertain to these types of materials.

1. Audiovisual materials.

a. Copied in the same medium.

- i. UNPUBLISHED MATERIALS. A copy may be made solely for: (1) preservation and security, or (2) deposit for research use in another appropriate library or archives. (Title 17, Sect. 107 <http://www.copyright.gov/title17/92chap1.html#107> and 108b <http://www.copyright.gov/title17/92chap1.html#108>).
- ii. PUBLISHED MATERIALS. A copy may be made ONLY when the conditions for replacement copying are met (see B. of this section). If the library fears that an audiovisual item may not be available for replacement in the future, the library may make a circulating copy of the material. The original will not be available for use. If it becomes necessary to replace the circulating copy, a copy may be made from the original only if a replacement is not available from commercial sources at a fair price.

b. Copying audiovisual material when a change of format results is permitted ONLY when the conditions for replacement copying or preservation copying are met, or when permission to change the format is granted by the publisher.

c. Off-air taping for addition to the collection is allowed only when permission or license has been received. Record of such license or permission must be maintained in the unit where the material is stored.

2. In the case of computer programs, the copyright law addresses this issue by allowing copying to counteract damage or distortion and to ensure a usable item. Therefore, computer software and datafiles may be copied as described in B. and C. of this section.

Section XVII: Copyright Protection for Library Publications

Copyright law protects all publications of LSU Libraries. Issues concerning the design and distribution of internal and external communications are addressed by Louisiana State University and Agricultural & Mechanical College Policy Statement 10.

- A. Notice of copyright will appear on all LSU Libraries publications including electronic works. The notice will follow one of these models:

Copyright 8 <year of publication> <author's name>, LSU Libraries

Copyright 8 <year of publication> LSU Libraries

- B. Copyright protection exists regardless of official copyright filing, but in some cases filing for LSU Libraries= publications may be desirable.
- C. For copyright purposes, a work made for hire belongs to the employer or the person for whom the work was prepared. This is specified in Title 17, USC Section 201 (b) as follows:

Sec. 201. Ownership of copyright

(b) Works Made for Hire. - In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.