

# UMDNJ-University Libraries Copyright FAQ

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<http://www3.umdnj.edu/stlibweb/copyright/FAQ/>

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## UMDNJ-University Libraries Copyright FAQ

### INTRODUCTION

The University Libraries' license extensive electronic scholarly resources (books, journals and images) for use in UMDNJ's educational activities. The listing of these resources can be located from any of the campus libraries' Web sites listed at the end of this document. When you choose to incorporate readings (either book chapters or journal articles) in courses, what you need to do is provide a link/URL to the resource or provide the citation for the information used. The same procedure applies to images used in presentations and in classroom use. For this reason, we urge you to consider choosing from the considerable array of licensed resources provided university-wide which eliminates the need to seek copyright permission from the author or owner of the content.

### QUESTIONS

1. Does "Fair Use" apply in our context of making handouts for health sciences students in a not-for-profit educational context?

**Answer:** *"Fair Use" can be invoked when making handouts for health sciences students in a not-for-profit context, but the restrictions to "Fair use" must be followed. Handouts can be used on a one-time basis when making copies of a chapter of a book, an article from a periodical or newspaper, a short story, short essay or short poem from a book, a chart, graph, diagram, drawing, cartoon or picture. Specific criteria must be met in order to legally make copies, one per student, for classroom use. Copying that exceeds fair use limits must have the written permission of the copyright holder or*

royalty fees must be paid. Please note, such use in a course, if offered again, cannot then be repeated unless permission is obtained from the copyright owner.

For complete information, please consult the UMDNJ policy titled "Educational Use of Copyrighted Works" at [http://www.umdnj.edu/oppmweb/Policies/HTML/LegalServ/00-01-90-50\\_05.html](http://www.umdnj.edu/oppmweb/Policies/HTML/LegalServ/00-01-90-50_05.html). Each handout for distribution must bear the following notice: "This material may be protected by U.S. Copyright Law (Title 17, U.S. Code)

## 2. If a use is not a fair use, how do I get permission?

**ANSWER:** Permission needs to be obtained from the owner of the copyright, who may not necessarily be the author. Permission should preferably be in writing, and should describe the conditions of the permitted use (e.g., a description of the copyrighted materials, the purposes of the use, the term of the permitted use, the format of the use, and, hopefully, at no cost to the user). If permission can only be documented verbally, document the conversation, and follow it up with a letter confirming the terms of the permission granted. If the work is part of a book or a journal article, contact the Copyright Clearance Center (<http://www.copyright.com/>) which offers an electronic permission service and a well-established photocopy-based academic permission service.

UMDNJ retains licenses to extensive copyrighted materials. Check the UMDNJ libraries Web site (<http://www.umdnj.edu/librweb>) to determine if UMDNJ has a license to use the materials of interest to you in an educational, not for profit setting. (See the back page of this document).

## 3. May I put my course handouts on the Web?

**ANSWER:** Yes. In order to use copyrighted material on your Web site, you must password protect your site. In addition, you must abide by the restrictions on "Fair Use" and seek permission to include any copyrighted material from the copyright owner.

Guidelines for Electronic Reserve materials were developed by the University of Texas. Some rules of thumb include:

Limit reserve materials to:

- Single articles or chapters; several charts, graphs or illustrations; other small parts of a work
- Small part of the materials required for the course
- Copies of materials that a faculty member or library possesses legally (i.e. purchase, license, fair use, interlibrary loan)

You must include:

- Any copyright notice on the original
- Appropriate citations and attributions to the source
- A statement such as: "**This material may be protected by U.S. Copyright Law (Title 17, U.S. Code)**"

Limit access to students enrolled in the class and administrative staff as needed. Terminate access at the end of the class term. Obtain permission for materials that will be used repeatedly by the same instructor for the same class.

## 4. What material is considered "public domain" and can be used without copyright permission?

**ANSWER:** Material that can be used without permission because it does not qualify as copyrightable expression includes: facts; exact duplications of public domain works; ideas; systems; works created by employees of the Federal Government; titles and short phrases; logos and slogans; forms that only collect information (rather than provide information.)

Original works enter public domain when their copyright protection, if any, expires. Protection is a function of when the work was created, when it was published and whether notice was required at the time of publication. Otherwise protected works may be in the public domain if information from the copyright holder or express notice reveals that the copyright holder intends the work to be in the public domain.

Details about Copyright term and Public Domain can be found at [http://www.copyright.cornell.edu/public\\_domain/](http://www.copyright.cornell.edu/public_domain/)

5. I'm using copyrighted material in my course without permission. What notification do I have to display?

**ANSWER:** Until you receive permission to use copyrighted material, you must cite the source of the material and display the following: "This material may be protected by U.S. Copyright Law (Title 17, U.S. Code)." NOTE: Such use in a course, if offered again, cannot be repeated unless permission is obtained from the copyright owner.

6. Is it permissible to post our lectures, which contain figures scanned from books, on the Web?

**ANSWER:** If you have not yet received permission from the copyright holder for material in your course (regardless of whether you have placed the material on the Web or made hard copies), you must abide by the restrictions of "Fair Use" (see Question 1). The source of each picture or image must be cited and the following notice included: "This material may be protected by U.S. Copyright Law (Title 17, U.S. Code). "Fair Use" applies only the first time the copyrighted material is used (during the first semester a resource is used). Permission must be obtained before the material is used in a subsequent course. If a use is not a fair use, you need to get permission from the copyright holder for any material you intend to use in your course.

7. Depending on who holds the copyright, what can and cannot the faculty member do to modify the material once a copyright has been obtained?

**ANSWER:** Among the exclusive rights of an owner of a copyrighted work is the right to use that work to create a new, or derivative work, from the original work. If the faculty member owns the original work, he or she has the right to modify the work. If he or she does not own the original work, permission must be sought from the owner.

8. How much of a modification in the published material, figures, charts and text would constitute an infringement of copyright?

**ANSWER:** What does and does not constitute a copyright infringement is determined by the courts. A citation that begins, "Adapted from: [source] is appropriate.

9. If I find a great article for my course at the last minute, can I use it without getting permission?

**ANSWER:** Yes, under the following circumstances. One of the provisions in the Guidelines for Classroom Copying in Not-for-Profit Educational Institutions states that "multiple copies (not to exceed in any event more than one copy per student per course) may be made by or for the teacher giving the course for classroom use or discussion provided that the copying meets the tests of 'brevity and spontaneity.'" The Guidelines' definition for spontaneity is "the copying is at the instance and inspiration of the individual teacher, and the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission."

Get permission if you plan on using the article in a subsequent teaching of the course.

10. I use copyrighted material without permission in my course for only one lecture a semester. Is that a violation?

**ANSWER:** No. But you must get permission to use copyrighted material in your lecture if you use the same material for more than one semester. In addition you must abide by all the restrictions regarding "Fair Use." (See Question 1).

11. I found a useful image on the Web and I want to use it in my course Web site. May I do that?

**ANSWER:** Yes, but you must cite the source of the image and abide by the copyright policy of the Web site where the image originated. After its initial use, permission should be obtained to use the image. **Until then, provide the statement on your Web site: "This material may be protected by copyright law (Title 17, U.S. Code)"**

Please note: **Images that are readily available in usable digital form for purchase or license at a fair price may not be digitized without permission.**

12. If I use copyright material without permission in my course, how many copies can I make?

**ANSWER:** Following the "Fair Use" guidelines, a copy for the instructor and one copy for each student in the class is permissible on a one-time basis. If the copyrighted material is used in subsequent semesters, copyright permission must be obtained or royalties must be paid.

13. May I put links in my Web site to Web sites outside the UMDNJ domain?

**ANSWER:** Yes, as long as you abide by the copyright policy of the Web site to which you link. Copyright still belongs to the author/publisher because the content is in a "fixed medium". Linking is not a problem because it's equivalent to using a cross reference. Just because something is on the Internet does not mean it is there by permission. Link only to authoritative Web sites. Remember to cite the Web site being used for the link and request permission.

14. How serious is the penalty for illegally using copyrighted material?

**ANSWER:** Citing the Copyright Law, an infringer of copyright is liable for either the copyright owner's actual damages and any additional profits of the infringer, or for statutory damages. Actual damages and profits are not specifically set. Statutory damages may range from \$150,000 for willful infringement and \$750 to \$30,000 for innocent infringement. Details on the award of specific penalties can be found in the US Code, Title 17, Chapter 5, Section 504.

15. Will UMDNJ stand behind the faculty and course director if a slip-up regarding copyright infringement happens?

**ANSWER:** UMDNJ's copyright policy is straightforward regarding its position on infringement of copyright law. It states: "Non-compliance with this [copyright policy] may result in disciplinary actions under University employee and student policy and procedures, civil litigation, and/or criminal prosecution." In some cases the University will have indemnification obligations to individual employees who follow UMDNJ copyright policies and get sued in their individual capacities.

16. I'm worried about someone else stealing my original content. What should I do?

**ANSWER:** Your work, created as an original work and in a fixed medium, is protected by copyright whether registered or not. Registration is not a condition of copyright protection.

However, The U.S. Copyright Office Web site (<http://www.copyright.gov>) states that "in general, copyright registration is a legal formality intended to make a public record of the basic facts of a particular copyright". The copyright law does provide some advantages to encourage copyright owners to register their work, including evidence of ownership (certificate of ownership from the Copyright Office), the ability of the registrant to sue for infringement in federal court, and entitlement to certain damages. Links on the Copyright Office website provide direction on registering literary works, visual works, performing arts works, sound recordings, serials and periodicals, and mask works (relating to integrated circuits on semiconductor chips).

17. When faculty register for copyright on original material, who owns the copyright: the faculty member(s) or UMDNJ?

**ANSWER:** The UMDNJ policy on Intellectual Property: Copyrights and Royalties states that the Creator of (a) Institutional Works, (b) University/School Instructional Materials, and (c) Other Intellectual Property created with the use of University Resources shall assign the copyright in such to the University. The policy further states The University shall not claim any equity in or right to the copyright in (a) Traditional Works of Scholarship, (b) General Instructional Materials, or (c) Other Intellectual Property created without the use of University Resources. The phrases, "Institutional Works", "Other Intellectual Property", "Traditional Works of Scholarship" and "General Instructional Materials" are defined in the policy.

To determine if the copyright for a work you created belongs to you or to the University, please check with the Office of Legal Management, Patents and Licensing at 732-235-9350. Patents and Licensing will assist you with the registration of any copyright in which the University holds an interest.

18. Do I need to register my copyright a second time if I have made changes to my original document?

**ANSWER:** Yes, if material (significant) changes are made to the work. With further questions, please call the Office of Legal Management, Patents and Licensing, at 732-235-9350.

19. When do copyright restrictions expire?

**ANSWER:** Generally, copyrights expire 70 years after the death of the author for works created after January 1, 1978. Different rules apply to older works, and there are special rules for works-for-hire. Works published before 1923 and 1977 are subject to different rules. Please check with the Patents and Licensing Office, 732-235-9350, if you have questions about expiration and public domain.

**Details about Copyright term and Public Domain can be found at [http://www.copyright.cornell.edu/public\\_domain/](http://www.copyright.cornell.edu/public_domain/)**

20. Where can I obtain additional information on copyright?

**ANSWER:** For additional information and assistance on using copyrighted or licensed materials or on protecting your own original content, you may contact the University Libraries at 973-972-4353 or the Office of Legal Management's Patents and Licensing Office at 732-235-9350.

## IMPORTANT LINKS TO UMDNJ RESOURCES AND COPYRIGHT INFORMATION

### UMDNJ Libraries Toolkits

#### *Citing Sources of Information*

<http://www.umdj.edu/librweb/newarklib/ref/citing.html>

#### *Copyright and Intellectual Property Resources*

<http://www3.umdj.edu/stlibweb/copyright/>

### UMDNJ Copyright Policies

#### *Educational Use of Copyrighted Works*

[http://www.umdj.edu/oppmweb/Policies/HTML/LegalServ/00-01-90-50\\_05.html](http://www.umdj.edu/oppmweb/Policies/HTML/LegalServ/00-01-90-50_05.html)

#### *UMDNJ Policy on Intellectual Property, Copyrights, and Royalties*

[http://www.umdj.edu/oppmweb/Policies/HTML/AcademicAff/00-01-20-21\\_00.html](http://www.umdj.edu/oppmweb/Policies/HTML/AcademicAff/00-01-20-21_00.html)

#### *UMDNJ Policy on Intellectual Property Protection and Licensing*

[http://www.umdj.edu/oppmweb/Policies/HTML/LegalServ/00-01-90-45\\_00.html](http://www.umdj.edu/oppmweb/Policies/HTML/LegalServ/00-01-90-45_00.html)

#### *UMDNJ Offices of Patents and Licensing*

<http://www.umdj.edu/resrhweb/patents/index.htm>

## UMDNJ Libraries

UMDNJ – University Libraries

<http://www.umdj.edu/librweb>

UMDNJ – George F. Smith Library of the Health Sciences

<http://www.umdj.edu/librweb/newarklib/library.html>

UMDJ – Robert Wood Johnson Library  
of the Health Sciences

[http://www2.umdj.edu/rwjlbweb/UL\\_Site\\_New/index3.htm](http://www2.umdj.edu/rwjlbweb/UL_Site_New/index3.htm)

UMDNJ – Health Sciences Library at Stratford

<http://www3.umdj.edu/stlibweb/>

UMDNJ – Camden Campus Library

<http://www4.umdj.edu/camlbweb/index.html>



**VITAL URLs on COPYRIGHT RESOURCES  
and  
UMDNJ ACCESS to LICENSED CONTENT  
<http://www3.umdj.edu/stlibweb>  
April 2009**

**Copyright and Intellectual Property Resources  
<http://www3.umdj.edu/stlibweb/copyright>**

University Libraries' compiled list of links divided into the following categories: general information, institutional policies, tutorials, permission to copy, DMCA, distance learning, TEACH act, producers/publishers, multimedia, organizations, legal resources and print resources.

**University Libraries Full-Text Journals  
<http://sfx.umdj.edu/cgi-bin/index.cgi>**

Searchable title listing and links to over 10,000 full-text electronic journals currently licensed for use by the UMDNJ community. This full-text content can be used and provided to students as the UMDNJ community is already licensed to make this content available. These resources are also accessible from the University Libraries online catalog, <http://voyagerumdj.edu>

**UMDNJ Libraries Electronic Textbooks  
<http://www2.umdj.edu/rwjlbweb/ebooks-subject.htm>**

Listing and links to over 425 full-text electronic textbooks currently licensed for use by the UMDNJ community. This full-text content can be used and provided to students as the UMDNJ community is already licensed to make this content available. These resources are also accessible from the University Libraries online catalog, <http://voyagerumdj.edu>

**UMDNJ Libraries Image Collections  
[http://www.umdj.edu/librweb/image\\_collections.html](http://www.umdj.edu/librweb/image_collections.html)**

Link to a list of image collections available to UMDNJ users. For access to licensed collections from outside UMDNJ, you will be prompted to login with remote access/EZProxy services. Unrestricted sites available to the general public are so noted. Additional resources are available in the Media & Microcomputer Center located in the Smith Library (Newark) and the Media Library of the RWJ Medical School (Piscataway).

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<http://www3.umdj.edu/stlibweb/copyright/FAQ/>**

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