

LAGRANGE COLLEGE LIBRARY POLICY AND GUIDE ON COPYRIGHT

POLICY

It is the policy of LaGrange College that all faculty, staff, students and patrons of the Library shall adhere to U.S. copyright law, which can be found at 17 U.S.C § 101 et seq. [add link], when using College resources. Any usage that violates U.S. copyright law is expressly forbidden, and the College will not assume any liability for such violations. Faculty, staff, students and patrons who willfully disregard this policy and/or applicable copyright law do so at their own risk and assume liability.

In order to facilitate the College community's compliance with U.S. copyright law and this policy, the Library provides the following guide. Please note that the Library has endeavored to summarize an extremely complex area of the law and to provide general guidelines that should allow the College community to comply with the law. Should further questions or the need for clarification arise, please consult the Director of the Library for additional information. If usage questions still remain after consultation with Director of the Library, a user of copyrighted material is advised to seek the author's permission for use of the material.

GUIDE

WHAT IS A COPYRIGHT?

A copyright is legal protection given to an author for "original works of authorship." 17 U.S.C. § 102. In other words, an author gets a copyright in a work when he/she creates an original expression. Originality is key to obtaining a copyright. Please note that an author can only copyright expression – in the form of a writing, recording, performance, or display; an author cannot copyright an idea itself.

WHAT RIGHTS DOES A COPYRIGHT GIVE?

A copyright gives the author the exclusive right to:

- Reproduce copies of the work (electronic or paper);
- Create derivative works based on the copyright;
- Distribute (Sell!) copies of the work;
- Publicly perform the work; and
- Publicly display the work.

WHAT CAN BE COPYRIGHTED?

Any "original work of authorship" can be copyrighted. Commonly copyrighted items include books, articles, music, plays, poetry, paintings, photographs, sculpture, and movies. Items other than those can be copyrighted so long as they are original works of authorship.

WHAT IS NOT PROTECTED?

Any work that lacks originality, is a fact, is in the "public domain," or is a US Government document can be used without violation. A work is in the public domain if it was published before 1922. There are also several other complex exceptions to this rule. If you suspect that you may fall into an exception, please contact the Director of the Library to confirm your exception.

WHEN CAN I USE COPYRIGHTED MATERIAL?

There are two very important exceptions that allow use of copyrighted material: face-to-face classroom instruction and fair use.

Face-to-Face Classroom Instruction:

An instructor or students at a school may perform or display copyrighted material in the classroom during face-to-face classroom instruction. 17 U.S.C. § 110(1). This exception does not allow posting on the internet or

WebCT/Mentor. It also does not allow distribution during class. It only allows performance or display, such as on a screen or overhead. There is a separate, narrower exception for distance learning in 17 U.S.C. § 110(2), but it is so narrow that using “fair use” standards explained below will probably allow greater flexibility.

Fair Use

The Fair Use exception may allow use of a copyrighted work without the author’s permission. Fair use requires a user to look at four factors and do a case-by-case analysis. The four factors are:

1. What is the character of the use? Uses that are personal, educational or nonprofit in nature are more likely to be considered fair use than uses for commercial gain.
2. What is the nature of the work being used? Original works that are fact-based and published (such as newspapers and magazines) are more likely to be considered fair use than uses of works that are creative (such as short stories or musical scores).
3. How much of the work is being used? Uses that comprise a small quote or scene from a larger work are more likely to be considered fair use than uses that comprise the majority of or the entire work.
4. What is the effect of the use upon the potential market of the work? If a use reduces the potential market for the work, then it is unlikely to be considered fair use.

If you wish to copy or distribute a copyrighted work in excess of the fair use, please seek permission from the author. The Director of the Library can provide you with guidance in seeking permission.

Please note that fair use does not permit the repeated use of the same portion of the work forever. If this is an excerpt from a work that an instructor uses every semester, a good guideline would be for the instructor to operate as if his/her fair use expired after 2 years. Continued use beyond that time should require permission.

WHAT FAIR USE GUIDELINES APPLY TO MUSIC?

Fair use copying of music should be limited to:

- sheet music for entire work only when there is insufficient time to procure purchased copies and provisions are made to acquire them soon thereafter;
- sheet music for performable units (such as movements) only if out of print;
- student performances should be recorded only for evaluation or a portfolio;
- sound recordings only single copies for classroom or library reserve usage.

In the event of copying music, please include the copyright notice on the original and a citations or attribution to the source from which the copy was made.

WHAT FAIR USE GUIDELINES APPLY TO PLACING MATERIAL ON RESERVE IN THE LIBRARY?

Materials placed on reserve at the library should be limited to single articles, single chapters, several illustrations, or other small parts of a work. These materials should comprise only a small part of the materials required for the course, and they should be copies of materials that the faculty member or the library already possesses legally through purchase, license, or interlibrary loan. Materials on reserve must contain the original copyright notice on the original, a citation or attribution to the original work, and the material must contain a copy of the Library’s Copyright Notice. Access to reserve materials should be limited to students enrolled in the class and must terminate at the end of the semester. Please note that instructors using the same reserve materials under the fair use exception will be required to obtain permission for the usage if the materials are used for more than two years.

DOES THE LIBRARY ITSELF HAVE ANY SPECIAL RIGHTS?

Libraries are allowed special rights other than fair use under 17 U.S.C. § 108. The library’s special rights include archiving lost, stolen or deteriorating works, making copies for library patrons, and making copies for other libraries’ patron, such as through interlibrary loan.