

Copyright FAQ

For Instructors Utilizing the School of Medicine (“SOM”) Learning Management System

Version 3.0 – July 2012

1. Copyright

The UVA libraries license a very significant amount of scholarly materials (articles, databases, books, textbooks) for campus-wide access in electronic format. These licenses generally permit students, faculty, and staff to read and download licensed content freely for research, teaching, and learning purposes. You may use this content in your teaching and deliver the content (most easily through online links) to your students.

Copying and delivery of educational materials that are not already licensed for ubiquitous campus access, however, takes place under the complex principle of copyright law known as “fair use.” Fair use is determined on a case-by-case basis; it requires care and diligence every time material is used without formal permission from the copyright holder. Fair use requires evaluation of issues such as how much of the underlying material is to be used, the length of time the material will be made available, the number of people with access to the material, the market impact of reproducing the material without paying a fee, whether the material is scientific or creative in nature, and other factors. Every case needs to be looked at individually, with responsible consideration of whether students should be asked to purchase the work in question either in whole or through course-pack licensing. Under University policy, instructors are personally responsible for their decisions directing delivery of copyrighted materials to students under principles of fair use.

2. The SOM Student Source Web Site - Learning Management System (“LMS”)

The LMS enables three access levels: **Level 1:** Viewable by anyone (world-wide); **Level 2:** Viewable only to Oasis account holders (faculty, students, & administrators engaged in SOM learning activities); **Level 3:** Viewable only to students enrolled in a particular unit or course.

Access Level 2 is the level that will be utilized for virtually all course materials: Most SOM courses are team delivered with as many as 100 faculty and/or residents teaching in a single course. Further, instructors and students all need to review educational content from other courses due to the integration of SOM curriculum. SOM considers preservation of the course materials for an entire academic year critical to enable comprehensive learning by SOM students. For all these reasons, virtually all SOM course materials will be uploaded to access level (2) and made accessible to all Oasis account holders for the duration of each academic year. Fortunately, a considerable amount of the course materials used at the SOM are developed in-house and are copyrighted to the University itself. Such materials are uncomplicated from a copyright perspective. *However, uploading unlicensed third party materials (such as individual book chapters or Power Points integrating content such as graphs, images, etc.) requires a careful copyright analysis.*

3. Basic Standards for inclusion of course contents in the LMS Level 2:

(A) From a copyright perspective, the most appropriate content to deliver freely to students includes:

- (1) Self-authored materials in which UVA holds the copyright;
- (2) Licensed content from the library's vast collections of electronic journals, books, and databases;
- (3) Materials for which permission has been obtained;
- (4) Public domain materials

(B) Third-party content can be delivered to students through a password protected or authenticated system without getting permission or paying fees in certain circumstances. But, each time such content is made available, the instructor must undertake a careful fair use analysis. For a detailed discussion of fair use standards for course reserves, please review: <http://copyright.columbia.edu/copyright/fair-use/>.

In general, the following fair use guidelines apply:

- **Thoughtful integration of individual images, graphs, charts, etc.**, into Power Points or other course materials written by faculty is a reasonable fair use when the course materials are used solely within the SOM—especially if the course materials are part of the library's campus-licensed resources. For images or graphs taken from print materials, additional care is important. Many photographers, image creators, and scientific journals are highly protective of their copyrights and are not willing to allow individual images to be “republished” without permission and payment of fees. Harvesting every image or graph from a print text without permission and reproducing them in a distributed outline could be challenged as excessive. Integrating images or graphs from multiple print resources to create a new work is much more likely to be considered fair.
 - **CAVEATS:**
 - *Proper attribution is always critical, whether images or graphs are taken from licensed online materials or from print books or journals.*
 - *Faculty Power Points, outlines, and similar materials incorporating images can be preserved and made accessible for students as long as SOM considers educationally appropriate, as long as these are kept behind an authenticated system such as LMS Level 2.*
 - *Students should be cautioned not to redistribute these course materials.*
- **Supplemental course materials such as individual book chapters, articles, or excerpts from scholarly works (that are not licensed by the libraries for general online access)** can be delivered to students through LMS level 2. However, no more than **one chapter**, or **no more than 10% of any given work** should be delivered unless review and approval has been obtained from the Health Sciences Library. (*The Library can evaluate whether a given work is out of print or otherwise unavailable, or whether it should be licensed if more than a chapter or 10% is needed.*)
 - **CAVEATS:**
 - This material should be labeled specifically as **copyrighted with time-limited access**;

- Students should be told that if they wish to preserve this material for long-term study, they must download a personal study copy as it will not be preserved in their course accounts for longer than about a year;
- Students should be cautioned not to redistribute these course materials;
- The instructor[s] must keep track of the total amount of material being distributed from any given source;
- If **multiple instructors** want individual chapters from the same source (for example a medical textbook) to be delivered to OASIS account holders, the aggregation must be caught early. It is not reasonable or fair to deliver a substantial amount of material from a single textbook or other source without getting permission, merely because different instructors each individually have only asked to copy a small portion for delivery to SOM students' Oasis accounts. In such situations, the textbook/work needs to be bought by the students or licensed for E-delivery by the SOM.

4. Questions and Answers

The following questions and answers attempt to address copyright issues at a more specific level. Additional questions should be addressed to: Karen Knight kkg8n@virginia.edu, or Ellen Ramsey at ecr2c@virginia.edu at the Claude Moore Health Sciences Library. All answers will be addressed with the help of the Office of General Counsel.

#1: Can I use portions (pages, chapters, or multiple chapters) of *campus-wide licensed online books and journals* in Level 2 materials?

ANSWER: *Yes, the very best scenario is to use books or journals already licensed for campus-wide access and use.* Generally speaking, E-Books found on the Health Sciences Library's (HSL) E-Book page or through a Virgo Catalog search have been licensed for campus-wide access and use. Some of these books have restrictions, however, on the number of simultaneous users. Please refer to the HSL's [E-Book List](http://www.hsl.virginia.edu/collections/eresources/ebooks-np/collections) (<http://www.hsl.virginia.edu/collections/eresources/ebooks-np/collections>) to see the number of simultaneous users licensed for each title based upon their Collection. Books in Collections with unlimited simultaneous user licenses should be given top consideration when planning course assignments, as this enables all students to access the same readings at the same time across all four years. The best way to provide this access is to link to the material, but a pdf may be delivered as well. Unless you get permission from the publisher, you may not post these readings to the general public web.

#2: Can I incorporate photographs, figures, or other images obtained from *campus-wide licensed online books and journals* in power point presentations or other materials distributed in Level 2?

ANSWER: *Yes, since the books or journals are already licensed for campus-wide use and access, you can use excerpts from these materials in your course materials freely.* However, unless you get permission or undertake a very careful fair use analysis, you should not post your power points or notes to the general public web.

#3: Can I copy and deliver book chapters or journal articles from books or journals that have a *limitation on the number of concurrent users* to Level 2?

ANSWER: Yes, but only after undertaking a very careful fair use analysis consistent with the guidelines in section 3 B above. Limited access library licenses are intended to provide content that supports auxiliary study and research, not deliver essential course materials required by all students concurrently. Using a small amount of such materials is valid when the fair use guidelines noted above are met.

#4: Can I copy and deliver book chapters or journal articles from books or journals that are *only licensed or available in single print editions*, to Level 2?

ANSWER: Yes, but only after undertaking a very careful fair use analysis consistent with the guidelines in section 3 B above. Using the occasional chapter from a personally owned or library book to educate your students is consistent with fair use; however, review the guidelines carefully to be sure that you are not exceeding reasonable standards for the amount and duration of access being provided without getting a license.

#4-A: Same scenario as in #4 above, but now I want to add another chapter or two later in the semester from the same book for delivery to students.

ANSWER: This is the same problematic scenario addressed in the guidelines in section 3 B above. Delivering a single chapter or other small portion of content from a book or text for student learning in a single semester or academic year is consistent with current understandings of classroom fair use. Adding additional chapters or expanding the total amount of content can swiftly reach the point where the copyright holder has every reason to complain that the students should have simply bought the work. If the total amount delivered to students through the LMS Level 2 does not exceed 10% of the work as a whole, fair use factors support delivery. Please review the Fair Use Checklist found at the link below to as a way of assessing whether the amount of material you want to use is fair:
<http://copyright.columbia.edu/copyright/files/2009/10/fairusechecklist.pdf>

#5: Can I incorporate photographs, figures, graphs, or other images *obtained from print books and journals (or limited access E-books)* in power point presentations or other materials distributed in Level 2?

ANSWER: Yes, but you must handle this process carefully. Using individual images, figures, graphs, etc. copied from books or journals to teach your students is a fair use of such material. Nevertheless, as is noted above, you should be aware of the fact that many photographers, image creators, and scientific journals are highly protective of their copyrights and are not willing to allow individual images to be “republished” without permission and payment of fees. You must attribute all materials that are used; label the material clearly as “copyrighted” to the source and “not for redistribution; use only a reasonable amount of material from any one source; and be careful to copy and distribute only content that is needed to achieve your teaching goals.

#6: Who is legally responsible for the content I upload to the LMS?

ANSWER: You are! University policy makes each student, staff or faculty member personally responsible for copyright compliance.