



Copyright Guidelines

Copyright Guidelines

The following guidelines have been recommended by Harvard University's Office of the General Counsel:

From time to time, instructors ask that readings and other materials for specific courses be made available to students via "electronic reserve." Electronic reserve systems allow storage of electronic versions of materials that students may retrieve on a computer screen and from which they may print a copy for their personal study.

From the library's standpoint, the process of making material available via electronic reserve is hindered by the fact that publishers and publishers' rights organizations do not yet have clear or reliable procedures for granting permissions for such use. Our experience has been that in many instances, publishers do not respond at all to requests for permission to post their copyrighted material, even where the user offers to pay a royalty. For this reason, special procedures are necessary to determine the conditions and limitations under which materials may, consistent with the requirements of copyright law, be placed on electronic reserve.

Preliminary Issues

A. Before deciding to place material on electronic reserve, course instructors should consider whether the material is already available to Harvard students on-line through license arrangements such as Hollis Plus. Library personnel can provide information about materials that are available on-line, and how they can be accessed.

B. Material in the public domain may be freely digitized and placed on electronic reserve without the necessity to obtain permission from the author or publisher. Such material includes works of the United States Government and works for which copyright protection has expired. (For guidelines on when copyright has expired, see Attachment A.)

C. With respect to other works, these guidelines are designed to be used when permission to place material on electronic reserve has been, or will be, requested from the copyright holder or its agent. If no such permission is to be sought, placement of materials on electronic reserve is subject to the stricter "fair use" standards of Section 107 of the Copyright Act and should only be done with the approval of the chief librarian of the faculty or the Office of the General Counsel.

Guidelines

1. In the absence of applicable licenses or clear information that material requested for electronic reserves is in the public domain, permission to reproduce copyrighted material for electronic reserve use should be requested from the copyright owner or its authorized agent. Permission should be requested at the earliest possible date. Use of the model request letter at [Attachment B](#) is recommended.
2. Records of all requests sent should be maintained for three years.
3. If the copyright owner (or agent) denies permission, or conditions permission on unacceptable royalty rates, the material should not be placed on electronic reserve; if the material has already been placed on electronic reserve under the circumstances described in Paragraph 4 below, it should be taken off-line immediately, and the electronic copy made inaccessible.
4. If the copyright owner (or agent) does not reply to the request within a reasonable time, a follow-up request should be made, if time allows. If time does not allow, or if there is no reply to the follow-up, the library may place the work on electronic **provided that the following conditions are satisfied**:
 - The material may be placed on electronic reserve until the current academic year's course offering concludes, but should thereafter be made inaccessible.
 - Reasonable efforts must be made to limit access to those students who are registered in the course for which the items have been placed on reserve, and to instructors and staff responsible for the course or the electronic system. During "shopping" periods, other students eligible to enroll

in the course may also have access, but after the registration deadline, access must be restricted to registered students.

- On a preliminary or introductory screen, the electronic reserve system should display a notice stating that the material on reserve is for the student's private study, scholarship, and research, and that further distribution may violate the copyright laws.
- Each item should be accompanied by a notice stating that the material may be protected by copyright and should not be further reproduced without checking its copyright status. This may be accomplished either by posting such a notice on the first screen of each item in the reserve collection, or by stamping such a notice on the item before it is scanned into the system. In either case, the text of the notice may be a generic notice incorporating the warning set forth above, and need not reproduce verbatim the copyright notice (if any) appearing on the underlying work.
- Access must be discontinued as soon as possible after the course concludes. However, short-term access to materials placed on electronic reserve systems in previous academic terms may be provided to students who have not completed the course. Once there is no longer any need for student access, the electronic copy should be made inaccessible.
- Should the copyright holder respond to the request after the work is mounted on the web site, a denial of permission must be honored and the work removed.

5. The foregoing procedure can be used in successive years, provided that a new request for permission is made in each successive year.

Attachment A: Summary of Rules Concerning Duration of Copyright

The basic rules concerning when works pass into the public domain are summarized below. Questions may be directed to the Office of the General Counsel at 495-1280.

Works created but not published or copyrighted before January 1, 1978

Copyright endures for the life of the author plus 70 years (but in no event terminates any earlier than 2002). If the work is published by the end of 2002, the term of protection continues through 2047.

Works published or copyrighted before January 1, 1978

If published before 1978: original term of copyright of 28 years from the date of publication. This term could be renewed for an additional 67 years.

Any copyright still in its renewal term as of January 1, 1999 enjoys a copyright term of 95 years from the date copyright was originally secured.

Works created by individuals after January 1, 1978

Life of the author plus 70 years.

Anonymous works, pseudonymous works, and works made for hire

If created after January 1, 1978: 95 years from the year of first publication, or 120 years from creation, whichever expires first.

If created but not published before January 1, 1978: 95 years from year of first publication or 120 years from year of creation, whichever expires first, but in no case shall copyright expire before the end of 2002, and if the work is published by the end of 2002, copyright continues until the end of 2047.

Special rule for libraries, archives, and nonprofit educational institutions

Notwithstanding the general rules stated above, libraries, archives, and nonprofit educational institutions enjoy special rights to use copyrighted works during the last 20 years of copyright protection. Congress established these rights in 1998, when it enacted the legislation extending the basic term of copyright from 50 to 70 years. The 1998 legislation provides that for the last 20 years of any term of copyright, a library, archive, or other nonprofit educational institution may reproduce, distribute, display, or perform in facsimile or digital form a copy of the work for purposes of preservation, scholarship, or research, provided that the work is not available at reasonable prices through normal commercial channels.

Attachment B: Sample Letter Seeking Permission to Use Copyrighted Materials

Library Reserves Manager
[Click **here** and type Library's Reply Info]

February 21, 2001

TO: [CLICK **HERE** AND TYPE RECIPIENT'S ADDRESS]

SUBJECT: REQUEST FOR PERMISSION TO USE COPYRIGHTED MATERIALS

To the Permissions Editor:

The material under copyright cited on the enclosed list has been assigned for student use by a member of the faculty of Harvard University for the Fall 1999 academic term. The form indicates estimated enrollment for the course.

The Harvard College Library requests permission to place an electronic copy of this material on reserve for the duration of the academic term (one semester).

Course readings in digital format (Adobe's PDF format) will be made available at no cost on the Harvard University course Web site. Network access to course readings is restricted to course participants by means of University-assigned passwords. A notice indicating ownership of copyright and restrictions on use will appear on each document in the electronic reserves system.

Thank you for your prompt reply. Please respond to the following address:

[Click **here** and type your library's return address]

Permission is hereby granted for specified use of the material:

Name: _____ Date: _____

Signature: _____

Fee: _____