

# LUTHER RICE COLLEGE & SEMINARY COPYRIGHT POLICY

## INTRODUCTION

### PURPOSE OF POLICY

This policy is intended to serve as a guide concerning the reproduction of materials at Luther Rice College & Seminary, in accordance with the Copyright Law of the United States (hereafter referred to as 17 U.S.C. (United States Code)).

### INTENT OF COPYRIGHT

The U.S. Constitution grants Congress the power "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries" (*US Constitution*). The rights assigned to copyright holders under existing law are essentially marketing rights. Copyright owners have the right to sell their works, and users should not interfere with that right by diminishing the available market for a work or by selling pirated copies. However, the existing copyright law expressly provides for the "fair use" of copyrighted materials, especially for education and research. The basic rule of thumb is that a copyrighted work can be used or copied for educational purposes so long as the use is not solely a substitute for purchasing a copy of the work.

## Copyright & Fair Use

The Copyright Act of 1976 is a United States copyright law and remains the primary basis of copyright law in the United States, as amended by several later enacted copyright provisions: The Digital Millennium Copyright Act and Copyright term Extension Act. The Copyright Act of 1976 spells out the basic rights of copyright holders, codified the doctrine of "fair use," and for most new copyrights adopted a unitary term based on the date of the author's death rather than the prior scheme of fixed initial and renewal terms.

According to the U.S. Copyright Office of the Library of Congress, "copyright is a form of protection provided by the laws of the United States (title 17, U. S. Code) to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works." For a work to be "original," it must meet two qualifications: (1) it cannot be copied from another work; and (2) it must exhibit at least a small amount of creativity.

Under section 102 of the Copyright Act, copyright protects a wide range of works. The principal categories for works of authorship are as follows:

- literary works
- musical works, including any accompanying words
- dramatic works, including any accompanying music
- pantomimes and choreographic works

- pictorial, graphic, and sculptural works
- motion pictures and other audiovisual works
- sound recordings
- architectural works

The Copyright Act grants five rights to a copyright owner, which are listed below:

- the right to reproduce the copyrighted work;
- the right to prepare derivative works based upon the work;
- the right to distribute copies of the work to the public;
- the right to perform the copyrighted work publicly; and
- the right to display the copyrighted work publicly.

The rights are not without limit, however, as they are specifically limited by "fair use" and several other specific limitations set forth in the Copyright Act.

Codified under Section 107 of the Copyright Act, "fair use" is the most challenging aspect of intellectual property dealing with copyrighted materials and the need for the public to have access to that information. Fair use is a copyright principle based on the idea that the public is entitled to freely use portions of copyrighted works for educational and informational purposes. Under fair use, someone other than the copyright holder may freely copy, display, perform, and distribute copyrighted material, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research. To help determine whether the use made of a work in any particular case is a fair use, one needs to assess four factors outlined in the copyright law.

The four factors of fair use are:

1. The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work (*Copyright and Fair Use-ALA*).

As a non-profit, privately supported institution, Luther Rice College & Seminary exists to advance knowledge through research, to disseminate knowledge through teaching, and to provide service to its constituency for continued learning. Therefore, reproductions made for students with Luther Rice identification can be assumed to be for non-commercial educational purposes. The school's library collections contain scholarly materials intended for the academic community and as such are of a nature most appropriate to claims for fair use. Authors and publishers are compensated for their initial production costs in the purchase price of a publication. They have not, however, found it profitable to support publications for the long term. Thus most publications go out of print and become unavailable after a relatively short time. The responsibility for preserving information indefinitely has fallen to libraries; therefore, the reproduction of otherwise unavailable materials within library collections can have no significant adverse economic impact on the potential market for or value of the material.

## **LIABILITY OF LUHER RICE COLLEGE AND SEMINARY EMPLOYEES**

1. Unsupervised reproduction: Liability for copyright infringement may not be imposed on an institution or its employees for unsupervised use of reproducing equipment located on its

premises, provided that such equipment displays a notice that making copies may be subject to copyright law (17 U.S.C. 108f). Luther Rice College and Seminary currently displays and will continue to display the proper notices.

2. Supervised reproduction: Institutional personnel will review this policy and determine that they are not in violation of copyright law before requesting that copies be made. Administration will use this policy to review requests from other Luther Rice departments and personnel.

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## **POLICIES**

### **COPY SERVICES**

It shall be the responsibility of the Luther Rice College and Seminary to review all photocopy requests for copyright compliance before submitting material for copying. Therefore, requests will be assumed to be in compliance with the institution's copyright policy.

Luther Rice College & Seminary staff will consider student requests for photocopies to be permissible as fair use, provided that the following criteria are met:

1. Use is academic in nature, for non-profit, educational purposes.
2. Purpose is for time-shifting, to make material available for study at student's convenience.
3. Request is for a single copy of one original, as opposed to multiple copies of the same original.
4. For textbook requests, the ten-percent rule is applied.

Requests meeting the above criteria will be filled.

Photocopy requests from commercial, for-profit entities or those of a non-academic nature will be filled according to the ten-percent rule, or one article per journal, one chapter per book, etc.

### **RESERVES**

At the request of a faculty member, photocopies of articles or chapters of books may be placed on reserve. Under the fair use guidelines, photocopies of these materials may be made without requiring permission from the copyright owner. Material that has been photocopied by the Library for the express purpose of being put on reserve will be the property of the Library and will be retained for a specified period of time. If the material has not been requested during that time, it will be destroyed.

### **INTERLIBRARY LOAN**

The Library endeavors to provide maximum participation in the interlibrary loan process for both Luther Rice College & Seminary users and for other libraries that ask us to provide materials to fill their users' requests. With regard to technological formats the Smith Library may obtain five journal articles per title from the last five years free from royalty considerations, and do not place

restrictions on articles over five years old.

**Borrowing:** All requests for materials not available in the Smith Library should be referred directly to the Director of Library Services and Administration to determine whether such requests can be filled. We will make every attempt to obtain material not owned by Luther Rice College & Seminary but needed by eligible Luther Rice College & Seminary users without violating copyright law. Library staff must search the title(s), find locations for the material, examine the time span of the articles involved, and determine whether the journal title(s) are available from commercial document suppliers and are covered by fair use.

**Lending:** We will fill any request for a photocopy of an article as long as copyright compliance is indicated on the request form by the requesting library. We will assume that the requesting library is taking responsibility for both the nature and the amount of the material it is requesting.

## **GOVERNMENT PUBLICATIONS**

Publications of the United States Government are documents prepared by an officer or employee of the government as part of that person's official duties and as such are in the public domain and are not copyrighted. These may be photocopied without restrictions. However, there are a few U.S. Government publications that have been copyrighted and a copyright notice will appear in them. These publications are subject to the institution's general copyright policy.

Publications of the State of Georgia are defined as "any written material produced for dissemination to the public by any state agency...". These may be photocopied without restrictions. However, if a copyright notice appears in any document, the institution's general copyright policy should be followed.

Publications of other governments and international organizations may or may not be copyrighted. If a copyright notice appears in the document, the institution's general copyright policy should be followed.

## **PRESERVATION**

Libraries and archives are permitted to copy published or unpublished works for the purpose of preservation (17 U.S.C. 108). The Smith Library will observe the following conditions before reproducing library materials for preservation purposes:

Material comes from collections that are open to the public.

Reproduction is made with no purpose of commercial advantage.

Notice of copyright is included in the reproduction.

For published works not in the public domain, a suitable replacement at a fair price will be sought, and reproduction undertaken only if an acceptable replacement is unavailable.

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

## **NONBOOK MATERIALS**

### **A. Video/Film/Sound Recordings**

Complete copyrighted works or substantial portions thereof will not be duplicated.

Portions of commercially acquired copyrighted works may be copied for instructional purposes. The amount and substantiality of the portion used in relation to the copyrighted work as a whole must be considered in determining whether the use of the excerpt constitutes fair use.

### **B. Computer Software**

The term computer software applies to all software for microcomputers, minicomputers, mainframes, or any other device, and includes the software documentation.

A notice stating that unlawful copying of software is prohibited will be posted in an area visible to the user on or near all self-service microcomputers available for student use.

### **C. Music Scores**

“For academic purposes other than public performance, a single copy of an excerpt from a copyrighted, in-print work may be made, provided that the excerpt does not comprise a part of the whole which would constitute a performable unit such as a selection, movement, or aria, but in no case more than 10 percent of the whole work. The number of copies shall not exceed one copy per pupil” (U.S. Copyright Office).

A single copy of an entire performable unit (section, movement, aria, etc.) that is (a) confirmed by the copyright owner to be out of print or (b) unavailable except as part of a larger work may be made by or for a teacher solely for the purpose of scholarly research or classroom instruction. (*Legal Handbook for Educators*—Patricia Hollander –Section: Guidelines for the Educational Uses of Music)

## **Luther Rice ARCHIVES**

Luther Rice College and Seminary holds the copyright on all material within its archival holdings. For purposes of research or reference, archival documents may be photocopied. Photocopying may be prohibited or limited should the physical condition of the material render it unfit for reproduction.

Clearance to publish archival material must be obtained from the head of the academic or administrative unit from whence the material originated.

## **LICENSE AGREEMENTS**

When a product acquired by Luther Rice College & Seminary is accompanied by a license agreement (particularly when signatures are required), it should be clearly understood that Luther Rice College & Seminary, in most instances, is not acquiring ownership of the material but is instead acquiring only the rights, as set forth in the terms of the license agreement, to "use" the product.

Terms set forth in license agreements are those of the publisher/distributor. Members of the Luther Rice community should pay particular attention to the Authorized and Prohibited Uses of such products and services. The Library Director(s) serves as the contact person and maintains copies of all license agreements that require a signature.

## REFERENCES

1. Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code, 2016. <https://www.copyright.gov/title17/>
2. "Copyright & Fair Use." American Library Association, 2019. [http://www.ala.org/advocacy/intfreedom/iftoolkits/litoolkit/copyright\\_fairuse](http://www.ala.org/advocacy/intfreedom/iftoolkits/litoolkit/copyright_fairuse)
3. Article 1 Section 8, Clause 8 of the U.S. Constitution
4. "Reproduction of Copyrighted Works by Educators and Librarians." United States Copyright Office, 2014. <https://www.copyright.gov/circs/circ21.pdf>
5. Hollander, Patricia. "Guidelines for the Educational Uses of Music" IN *Legal Handbook for Educators* New York: Routledge, 2019.