

Colorado State University Policy for ER (Electronic Reserve) Access to Published Copyrighted Materials

August, 2002

This policy is comprised of the principles and practices below.

Principles:

The ER policy is derived from the fair use provisions of United States Copyright Act of 1976. Section 107 of the Copyright Act expressly permits the making of multiple copies for classroom use. Such educational copying is one of six examples of uses that do not require the payment of a royalty or the permission of the copyright owners provided that the circumstances of the use are fair as assessed by the four factors in section 107 of the Copyright Act, the text of which is as follows:

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonograph records or by any other means specified in that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research, is not an infringement of copyright.

In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include the following:

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.

The collections of the CSU Libraries are purchased for the non-profit, educational use of students and faculty. All library materials are acquired with the understanding that there will be multiple uses of a limited number of copies. Libraries pay an institutional subscription price for journals and other materials to support multiple academic users. The sole purpose of ER will be to facilitate the ease of access to materials for classroom use by students. Considered within this context, the ER service can be developed by the CSU Libraries in a manner that conforms with the plain language of the fair use provisions of the copyright law.

Practices:

1. All use of materials placed on electronic reserves will be at the initiative of CSU instructors solely for the non-commercial, educational usage of students.
2. Whenever possible, materials to be copied or scanned for electronic reserves will be purchased by the library.
3. Longer works, such as complete books, will not be copied for electronic reserve service.
4. There will be no charge for access; the charge for copies made by students in the library will be limited to the laser-printing fees set by CopyRite.
5. Copyright notice will appear on all materials in the ER system to indicate that materials may be covered by copyright law.
6. Specific items on ER will be accessible only to those students enrolled in the given course/section that the instructor teaches.
7. Electronic files will be removed from ER no later than the end of each term (Fall, Spring or Summer). Electronic files cannot be archived for future use.
8. The library will follow the principles of Fair Use when placing materials on reserve.

The electronic copying and scanning of copyright-protected works for library reserve service are unsettled areas of the law which may be addressed by the Supreme Court or in future revisions of the copyright law. The CSU Libraries will continually monitor legal developments that may affect the fair use analysis of the ER service to ensure that library services are in compliance with the letter and spirit of the United States Copyright Law.