

Copyright in Education, FAQ's

A Collection of Commonly Asked Questions and Answers.

Q: As a teacher, I know that I have a wider use of materials under copyright, how do I know what I can and can't use?

A: Fair Use is explained in Section 107 of the US Copyright law. It allows limited uses of copyrighted material without seeking permission. The 4 guiding principles of fair use are:

1. **Purpose** - For what reason is the material being used? The courts will give preference to non-profit educational uses, as opposed to commercial uses.
2. **Nature** - What type of work is it? Fictional work is more likely to require permission than with factual work.
3. **Amount** - How much of the work is being used? This item is the most commonly addressed in fair use guidelines. How much of a chapter can I copy to use? How much of a video can I show? Guidelines that have been set by various organizations are not law, but they are guidelines that are usually followed.
4. **Effect** - How does the use of that portion of the work effect the potential? commercial market for the work? Copying large portions of a work in order for the student to not have to purchase the book, would probably have an effect on the market for the work. This would not be considered "fair use".

-- Remember that fair use is only for non-profit, educational uses. An instructor cannot copy items from published works to compile a book or packet they plan on selling for a profit. Instructors are given many freedoms under fair use, as long as they abide by the guidelines!

Q: I heard colleagues referring to "The TEACH Act" concerning copyright issues. What does the TEACH Act allow educators to do?

A: The TEACH Act increases the instructor's rights when working in the distance learning environment.

The TEACH Act allows for:

- ✓ Display / performance of nearly all types of work,
- ✓ No restrictions on recipient's location (traditional or digital classroom)
- ✓ Student access / retention for length of class session, and
- ✓ Copying / storing for digital transmission of material to students (including analog works not otherwise available to the faculty member).

TEXT & IMAGES

Q: Can I use text and images from a website as long as it doesn't have a copyright symbol?

A: No. Material can be copyrighted even if it does not have a copyright symbol, but Fair Use Guidelines may apply.

Q: There is a great article that I have found on a website. I would like the students to use this material. Do I need to obtain permission?

A: Linking to material is a great way to avoid the need to obtain permission. Giving the students the link (for example, on your Blackboard site) is allowed. Through the fair use guidelines, each student then can make their own personal copy.

VIDEO/ AUDIO

Q: May I rent or buy a video that I want to use in my classroom?

A: Yes. Fair Use will allow you to do so, with a few provisions. The video must relate to your current curriculum. Although most videos are labeled, "For Home Use Only", guidelines consider it fair use in a face-to face classroom. You can not show the video for entertainment purposes or charge admission.

Q: May I rent the video and make a copy to use every semester?

A: No, this is clearly an infringement on the copyright. One of the four guidelines of fair use is: Effect - How does the use of that portion of the work effect the potential commercial market for the work? This would definitely have an effect.

Q: May I take a copy of a video that ICC owns and make my own copy?

A: No, once again this would be an infringement on the copyright.

Q: May I copy a portion of the tape to use in my own presentation?

A: Yes, an educator may use 10% of the movie, or up to 3 minutes, whichever is less.

Q: I am preparing an end of the year presentation for my classes. I would like to use a popular song in the background. Is there a way to do this without violating copyright law?

A: If you do not need to use a particular song, it is better to use music that is royalty free or music that is available through Creative Commons.

A great place to start is at <http://search.creativecommons.org/>

TEXT BOOKS & COURSE PACKETS

Q: "I would like to use the workbook that accompanies my textbook. Although it covers the entire text, I only need the first three chapters. I don't want to have the students pay \$25 for the workbook, so I would like to copy the first three chapters. Would this fall under the fair use guidelines?"

A: No, this would not fall under the fair use guidelines. According to Ad Hoc Committee on Copyright Law Revision, Authors League of America, and Association of American Publishers, Inc., "There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.

For more information, see (*Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions with respect to Books and Periodicals, Agreed March 19, 1976, Ad Hoc Committee on Copyright Law Revision, Authors League of America, and Association of American Publishers, Inc.*, <http://www.musiclibraryassoc.org/Copyright/guidebks.htm>)

Q: Are the "fair use" guidelines good for educational packets even though they are sold in the bookstore?

A: Yes. ICC instructors can use the "fair use" guidelines to help gather information for the packets. The major fair use principle you need to consider is the amount of work that is going to be used. Questions to ponder ... Did I use 10% or less of the work? Did I avoid using the core of the material? Did I get permission to use an article that I would like to use semester after semester?

Q: I am using a different textbook than last year. There are a couple of charts I would like to use from the old textbook. Would I be allowed to copy and use these?

A: Yes, *Fair Use* allows educators to copy many items to use for educational purposes. This depends on which book, how much you want to copy and how it will be used. If you need help determining what can be copied within the *Fair Use* guidelines, contact the Copyright Facilitator: <http://www.icc.edu/innovation/copyrightServices.asp>.

Q: I compiled a course packet for my class. I included 8 different diagrams that I found in published works. Will these diagrams fall under the fair use category, allowing me to use the material without obtaining permission?

A: This depends on where the diagrams originated. If the diagrams came from different books, this would clearly fall under fair use. The fewer the items from each book, the better. The key is how many copies came from each book, and what was the impact. A general fair use guideline for use of articles is that you can use up to 10% of a book, as long as this does not impact the sale of such book. A general guideline for diagrams and drawings is the use of one diagram or drawing per book or periodical issue. Often it is possible to find similar diagrams in different books. Choosing one diagram from each different book would keep you in compliance of fair use.

INTERNET

Q: Can I put the project I presented in class onto my Website?

A: Not necessarily. Copyrighted material used under the “fair use guidelines” may not be allowed to be put on a website for viewing outside your educational institution.

Q: Can I use anything that I find on the internet?

A: No, the internet is not public domain. Websites are copyrighted and “fair use” guidelines must be considered, or permission needs to be obtained.

PUBLIC DOMAIN & CREATIVE COMMONS

Q: What is Public Domain?

A: Public domain contains works that are not copyrighted and may be used without permission. Credit should still be given to the source. Just because something is available to the public (i.e. Websites), it does not necessarily mean it is considered public domain.

Q: There are excellent photographs on the Smithsonian website. Can I use them?

A: The Smithsonian has granted permission for use of all their photographs for educational purposes. Much of the material found on government websites are in the public domain. (Review the copyright statements.)

Q: Do I need permission to download government documents?

A: Documents produced by the U.S. government, or any government agency, are considered public domain. They can be downloaded, copied, etc.

MY ORIGINAL WORK

Q: When is there a need to register my work?

A: You should register your work if you think you may need to defend it. You need to register it with the U.S. Copyright Office before you can legally bring a lawsuit to enforce it.

Q: How do I register a copyright and how much does it cost?

A: You can register a copyright with the U.S. Copyright Office. The forms can be obtained by calling the Copyright Office at (202) 707-9100, or online at <http://www.copyright.gov>. The registration fee is currently \$45 per work or \$35 online.

Q: What can be copyrighted? What cannot be copyrighted?

A: There are many items that can be copyrighted. Among them are: literary works; musical works (including lyrics); dramatic works (including music and scripts); pantomimes & choreographic works; pictures & graphics; sculptures; architectural works; motion pictures & audiovisual works; semiconductor ships; ship hull designs, original designs (such as mask works and weave patterns).

STUDENT WORK

Q: A student in my class has written a wonderful short story that I would like to share with my future classes. Is this work copyrighted?

A: Yes, students own the copyright on their creations. You must obtain the student's permission before you copy it, display it, etc. This would also include art projects, term papers, power point presentations, etc.

Q: What is the best way to obtain permission from a student?

A: Emailing the student and asking for a response would be effective. In most cases, the student will be proud of this and it would also show the student the importance of copyright compliance. The instructor can either keep a folder of "permission granted" or if you respond with a "thanks" it will be kept in your *sent* mailbox.