

How Copyright Applies to Me



Copyright vs. Fair Use

Public Domain

What Can I Use?

Software

Copyright is...

Copyright is established by the U.S. Constitution as:

- The owner of a property has the right to:
 - Copy
 - Print
 - Distribute their creations
- Everyone else wanting to use it must obtain permission from the owner.

Note: According to her Berne Copyright Convention, almost everything privately and originally created after April 1, 1989 is copyrighted and protected whether it has a copyright notice or not.

What is Protected?

- Literary works
- Musical works
- Dramatic works
- Pantomimes and choreographic works
- Motion pictures and other audiovisual works
- Sound recordings
- Pictorial and graphic works

What is NOT Protected?

- Titles
- Names
- Short Phrases
(Where's the beef?)
- Slogans
- Ideas
- Facts (calendars, graphs, height/weight charts, rulers, tape measures)
- Methods/ Procedures
- Principals and Discoveries

Length of Copyright

Copyright last for...

- Single author work created after 1978: Author's life plus 70 (70 years after author's death).
- Joint authors work created after 1978: Last surviving author plus 70 years (70 years after the last surviving author's death).
- Work created before 1978: 28 years when it is first obtained. If renewed, 75 years.

Fair Use Is...

Fair Use grants permission to copy for the following reasons:

- Reproduction for purposes of criticism
- Comments/ News reporting
- Teaching/ Scholarship/ Research

To determine if the use of a copyrighted work is Fair Use, the following four factors must be considered and weighed all together:

1. The purpose & nature of the use (How is it to be used?) – for education, for nonprofit, for personal
2. The nature of the copyrighted work (What is being used?) – fact, something published, unpublished work
3. The nature & substantiality of the material used (How much of the work will you use?) – small amount, more than small amount
4. The effect of the use on the potential market for or value of the work – original is out of print or otherwise unavailable, competes with the original, copyright owner is unidentifiable

Public Domain is...

Items that are not copyrighted and are “FREE TO USE”.

- Works published before January 1923.
- Works published between 1923 and 1978 that did not contain a valid copyright notice or if the copyright was not renewed.
- U.S. Government works
- Works that the copyright holder has freely granted to the public domain – graphics posted as FREE on the Internet. (Be sure to document where you copied them from.)
- A published play or performance used within the CLASSROOM setting.

Fair Use for Instructors

Multimedia

When making a Multimedia Project, instructors may use...

- 10 % or 3 minutes of a motion picture – whichever is less.
- 10% or 1000 words of text – whichever is less.
- Entire poem of less than 250 words and less than 2 pages.
- Three poems by one poet or five poems from a collection.
- 10 % or 30 seconds of music – whichever is less.
- Photograph or illustration in its entirety, but no more than five images by an artist or photographer.
- Multimedia Presentations may be used for up to two years; after that time all copyrighted portions must be renewed.

Fair Use for Instructors

Videos

Videos in the classroom:

- Must be used as part of a unit.
- Must be shown within the first 10 consecutive school days of the recording.
- The tape can be retained by the educational institution for 45 days after the recording, but then it must be destroyed. The tape is used for teacher evaluation purposes during the last 35 days of the 45-day retention period. Some companies will allow you to keep the videos on file longer; therefore you must check with the company to see about their specific copyright policy on videos.
- Videos used for recess or rewards must be obtained from a company with public performance rights - such as Region IV.

Note: Fair Use for instructional purposes is not the same as Fair Use for commercial purposes.

Software - Legalities

It is legal to do the following:

- Use only licensed software.
- Make a backup copy of the software – not to be used while the original is in working order.
- Install software according to the license agreement – single user license can be installed on one computer; a lab pack can be installed on five/ ten computers (stated in licensing agreement); a network license can be installed on all computers connected to the network.

Shareware vs. Freeware

What is Shareware?

- It is software that is offered on the Internet for preview purposes. At the end of the preview period, it must be purchased or uninstalled.
- Example: Snag-It

What is Freeware?

- It is software that is offered on the Internet and made for the distinct purpose of allowing people to download it for free.
- Examples: Acrobat Reader, Shockwave, QuickTime

U.S. Copyright Office

According to the U.S. Copyright Office:

- Permission is granted to create backup copies of software; however, burning CD's is prohibited.
- Permission is granted to create copies of books where the original is out of print, there is not ready market for permission and the copyright owner is unidentifiable.

For more information on Copyright, visit the U.S. Copyright Office's website at:

<http://www.copyright.gov>



Copyright and Fair Use Guidelines for Teachers

**TECHNOLOGY
& LEARNING**

This chart was designed to inform teachers of what they may do under the law. Feel free to make copies for teachers in your school or district, or download a PDF version at

www.techlearning.com. More detailed information about fair use guidelines and copyright resources is available at www.halldavidson.net.

Medium	Specifics	What you can do	The Fine Print
Printed Material (short)	<ul style="list-style-type: none"> Poem less than 250 words; 250-word excerpt of poem greater than 250 words Articles, stories, or essays less than 2,500 words Excerpt from a longer work (10 percent of work or 1,000 words, whichever is less) One chart, picture, diagram, or cartoon per book or per periodical issue Two pages (maximum) from an illustrated work less than 2,500 words, e.g., a children's book 	<ul style="list-style-type: none"> Teachers may make multiple copies for classroom use, and incorporate into multimedia for teaching classes. Students may incorporate text into multimedia projects. 	<ul style="list-style-type: none"> Copies may be made only from legally acquired originals. Only one copy allowed per student. Teachers may make copies in nine instances per class per term. Usage must be "at the instance and inspiration of a single teacher," i.e., not a directive from the district. Don't create anthologies. "Consumables," such as workbooks, may not be copied.
Printed Material (archives)	<ul style="list-style-type: none"> An entire work Portions of a work A work in which the existing format has become obsolete, e.g., a document stored on a Wang computer 	<ul style="list-style-type: none"> A librarian may make up to three copies "solely for the purpose of replacement of a copy that is damaged, deteriorating, lost, or stolen." 	<ul style="list-style-type: none"> Copies must contain copyright information. Archiving rights are designed to allow libraries to share with other libraries one-of-a-kind and out-of-print books.
Illustrations and Photographs	<ul style="list-style-type: none"> Photograph Illustration Collections of photographs Collections of illustrations 	<ul style="list-style-type: none"> Single works may be used in their entirety, but no more than five images by a single artist or photographer may be used. From a collection, not more than 15 images or 10 percent (whichever is less) may be used. 	<ul style="list-style-type: none"> Although older illustrations may be in the public domain and don't need permission to be used, sometimes they're part of a copyright collection. Copyright ownership information is available at www.loc.gov or www.mpa.org.
Video (for viewing)	<ul style="list-style-type: none"> Videotapes (purchased) Videotapes (rented) DVDs Laserdiscs 	<ul style="list-style-type: none"> Teachers may use these materials in the classroom. Copies may be made for archival purposes or to replace lost, damaged, or stolen copies. 	<ul style="list-style-type: none"> The material must be legitimately acquired. Material must be used in a classroom or nonprofit environment "dedicated to face-to-face instruction." Use should be instructional, not for entertainment or reward. Copying OK only if replacements are unavailable at a fair price or in a viable format.
Video (for integration into multimedia or video projects)	<ul style="list-style-type: none"> Videotapes DVDs Laserdiscs Multimedia encyclopedias QuickTime Movies Video clips from the Internet 	<ul style="list-style-type: none"> Students "may use portions of lawfully acquired copyright works in their academic multimedia," defined as 10 percent or three minutes (whichever is less) of "motion media." 	<ul style="list-style-type: none"> The material must be legitimately acquired: a legal copy (not bootleg) or home recording. Copyright works included in multimedia projects must give proper attribution to copyright holder.
Music (for integration into multimedia or video projects)	<ul style="list-style-type: none"> Records Cassette tapes CDs Audio clips on the Web 	<ul style="list-style-type: none"> Up to 10 percent of a copyright musical composition may be reproduced, performed, and displayed as part of a multimedia program produced by an educator or students. 	<ul style="list-style-type: none"> A maximum of 30 seconds per musical composition may be used. Multimedia program must have an educational purpose.
Computer Software	<ul style="list-style-type: none"> Software (purchased) Software (licensed) 	<ul style="list-style-type: none"> Library may lend software to patrons. Software may be installed on multiple machines, and distributed to users via a network. Software may be installed at home and at school. Libraries may make copies for archival use or to replace lost, damaged, or stolen copies if software is unavailable at a fair price or in a viable format. 	<ul style="list-style-type: none"> Only one machine at a time may use the program. The number of simultaneous users must not exceed the number of licenses; and the number of machines being used must never exceed the number licensed. A network license may be required for multiple users. Take aggressive action to monitor that copying is not taking place (unless for archival purposes).
Internet	<ul style="list-style-type: none"> Internet connections World Wide Web 	<ul style="list-style-type: none"> Images may be downloaded for student projects and teacher lessons. Sound files and video may be downloaded for use in multimedia projects (see portion restrictions above). 	<ul style="list-style-type: none"> Resources from the Web may not be reposted onto the Internet without permission. However, links to legitimate resources can be posted. Any resources you download must have been legitimately acquired by the Website.
Television	<ul style="list-style-type: none"> Broadcast (e.g., ABC, NBC, CBS, UPN, PBS, and local stations) Cable (e.g., CNN, MTV, HBO) Videotapes made of broadcast and cable TV programs 	<ul style="list-style-type: none"> Broadcasts or tapes made from broadcast may be used for instruction. Cable channel programs may be used with permission. Many programs may be retained by teachers for years— see <i>Cable in the Classroom</i> (www.ciconline.org) for details. 	<ul style="list-style-type: none"> Schools are allowed to retain broadcast tapes for a minimum of 10 school days. (Enlightened rights holders, such as PBS's ReadingRainbow, allow for much more.) Cable programs are technically not covered by the same guidelines as broadcast television.

Sources: United States Copyright Office Circular 21; Sections 107, 108, and 110 of the Copyright Act (1976) and subsequent amendments, including the Digital Millennium Copyright Act; Fair Use Guidelines for Educational

Multimedia; cable systems (and their associations); and Copyright Policy and Guidelines for California's School Districts, California Department of Education. Note: Representatives of the institutions and associations who helped to draw up

many of the above guidelines wrote a letter to Congress dated March 19, 1976, stating: "There may be instances in which copying that does not fall within the guidelines stated [above] may nonetheless be permitted under the criterion of fair use."



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