

Know Your Copy Rights™



Using works in your teaching —

What You Can Do

Tips for faculty & teaching assistants in higher education

In your teaching, you probably confront questions about how to share legitimately with your students articles, video, music, images, and other intellectual property created by others.

Sorting out what you can or can't do is often confusing. Lack of clear-cut answers may translate into delays, doubts, fear of liability, and decisions to err on the side of caution and non-use.

But frequently you do not need to get permission or pay a fee. Use rights may have been licensed by your library or reserved under law.

This brochure offers you some tips on when works can be used lawfully in your teaching without requesting permission or incurring additional cost.

Keep It Simple — Link When Possible

In many cases, you can eliminate the need for permission or fee by simply giving your students a link to the work instead of making copies of it. For example:

- ¥ Your library already may have paid for a subscription license that entitles you and your students to online access. Check your library's Web site to see if the work you wish to use is available there without charge.
- ¥ Even if your library hasn't purchased access, the work may be available for free on a legitimate Web site, such as your institutional repository or another online open archive, the author's homepage, or an open access journal. Most sites allow students to print a copy for personal use.
- ¥ If your library has not licensed access and you can't link to the work for free, contact the library's electronic reserves department about whether they can arrange access for your students.

Consider retaining the rights you need to place your own work in an open archive and share it with your students. The SPARC Author Addendum (www.arl.org/sparc/athor/) is one means of securing these rights.

Fair Use — Weigh Your Rights

it's unreasonable to expect a sufficiently rapid reply to a request for permission; and

¥ copying a graphic or an image from a work to display in your lectures.

■ Public domain

Works in the public domain are not protected by copyright, so you can use them freely. Here are examples of public domain works:

¥ Under US law, copyright expires 70 years after the death of the author. At that point, works automatically enter the public domain. As a practical matter, all works published in the US before 1923 are now in the public domain.

¥ Works by the US Government or created by its employees as part of their job are in the public domain. Note, however, that this does not apply to most works by federal grant recipients or contractors or to works of most other governments, including state and local governments.

Before You Pay for Use Rights

Check with your library to explore whether your use rights have already been paid for or whether there are alternatives to paying a fee.

To ensure a balance of the rights of copyright owners and the public interest, the law allows you to use copyrighted works without permission — regardless of medium — when evaluation of the circumstances suggests the use is fair.

This “fair use” provision of copyright law doesn’t provide hard and fast rules to tell you whether a use qualifies as fair. Instead, the unique facts regarding a use lead you to a reasoned conclusion.

Your evaluation should weigh four factors:

1. Purpose and character: If your use is for teaching at a nonprofit educational institution, this is a factor favoring fair use. The scale tips further in favor of fair use if access is restricted to your students.
2. Nature of copyrighted works: Is the work fact-based, published, or out-of-print? These factors weigh in favor of fair use.
3. Amount used: Using a small portion of a whole work would weigh toward fairness. But sometimes it may be fair to use an entire work (such as an image) if it is needed for your instructional purposes.
4. Market effect: A use is more likely to be fair if it does not harm the potential market for or value of the copyrighted work. But if it does, this could weigh more heavily against fair use than the other factors.

Consider each of these factors, but all of them do not have to be favorable to make your use a fair one. When the factors in the aggregate weigh toward fairness, your use is better justified. When the factors tip the scales in the other direction, your need to obtain permission from the copyright holder increases.

Don’t worry that the answer isn’t crystal clear. Just decide whether the factors weigh enough toward fairness so that you are comfortable not seeking permission. Some suggest reliance on the “golden rule” — if you were the copyright holder, would you see the use as fair and not expect to be asked for permission?

Can I show a movie in class that I've rented from my home movie rental provider?

Yes, providing the movie is shown for educational purposes and such an educational use is not

