

Know Your Copy Rights™



Using works in your teaching —

What You Can Do

Tips for faculty & teaching assistants in higher education
Brought to you by the ARL and the University of Northern Iowa Rod Library

Know Your Copy Rights™



What is Copyright

Copyright is a form of intellectual property protection provided by the law of the United States (Title 17, US Code) to authors of original works of authorship fixed in a tangible medium of expression. It arises automatically as soon as the work is fixed and does not require publication or registration. Copyright does not exist:

- for facts or ideas,
- materials lacking in originality,
- or for works created by federal government employees within the scope of their employment.

Section 106 of the 1976 Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

- reproduce the work
- prepare derivative works
- distribute copies of the work
- publicly perform the work
- publicly display the work directly or by telecommunication, and
- publicly perform a sound recording by digital means.

Copyright law provides a balance between the promotion of creativity by assigning rights to the creators which protect their work (Title 17, US Code) while at the same time facilitating public access to the copyrighted works (Fair Use). Copyright law is open to interpretation by the courts which play an important role in interpreting copyright principals.

Visit the Copyright at UNI Web site at <http://www.uni.edu/osp/copyright-uni> for additional information.



Use Your Copy Rights

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.



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:

- Rod Library already may have paid for a subscription license that entitles you and your students to online access. Contact the Reference Desk (273-2838) to see if the work you wish to use is available in a licensed library resource. For directions on linking see documents in the Local Practices and Resources section.
- Even if Rod Library hasn't purchased access, the work may be available for free on a legitimate Web site, such as an online open archive, the author's homepage, or an open access journal. For more information on open access journals see <http://www.doaj.org/>. Most sites allow students to print copy for personal use.

- If Rod Library has not licensed access and you can't link to the work for free, contact the library's Course Reserves section (273-6002) 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 (<http://www.arl.org/sparc/author/>) is one means of securing these rights.



When Linking Won't Do

If linking isn't the answer, there's still hope. Here are several common situations in which you are free to make copies for your students or use works in the classroom without permission or fee:

■ Uses permitted by license

Use of electronic resources today is commonly governed, not just by copyright, but also by licenses between owners and users. Your use rights can differ from license to license. Commonly a publisher's or aggregator's license with a research library will allow faculty and their students to:

- Print a reasonable amount of a work.
- Share it with other authorized users covered by the license (typically, all faculty and enrolled students are authorized users).

With the potential for creators to offer their works directly to users on the Web, use of Creative Commons licenses is growing at <http://creativecommons.org/> Using a Creative Commons notice, creators specify the rights conveyed to users — such as to copy, distribute, display, and perform the work, provided attribution is given.

■ Fair uses

When the circumstances might reasonably be judged as fair, you may use copyrighted works in your teaching without obtaining permission. US law lists four fair use factors — described on the next page — that will help you evaluate whether your use is permitted. Here are a few examples of uses that are generally regarded as fair:

copying reasonable portions of longer works for your class such as a copy of one article from a journal issue or a copy of one chapter from a book. Check with <http://www.library.uni.edu/copyright-policies> for Rod Library's Copyright Policies for more specific information;

- copying a timely article (or one you've recently discovered that is relevant for your class) when it's unreasonable to expect a sufficiently rapid reply to a request for permission; and
- copying a single 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.

Fair Use — Weigh Your Rights

To ensure a balance of the rights of the copyright owners and the public interest, the law allows you to use copyrighted works 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 work:**
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 purpose.
- 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.

Displaying or Performing Works in Your Classes

Copyright law makes special provision for displaying images, playing motion pictures or sound recordings, or performing works in classes. It is also possible to purchase public performance rights and video streaming rights for some titles.

■ Face-to-face teaching

You may display or perform a work in your class without obtaining permission when your use is:

for instructional purposes;
in face-to-face teaching; and
at a nonprofit educational institution.

If you don't meet all three of these criteria, consider whether what you have in mind is a fair use.

■ Distance education

Although a specific copyright exemption known as the TEACH Act may apply, its rigorous requirements have prompted most instructors to rely primarily on fair use to display or perform works in distance education (e.g., online or over cable TV). Visit <http://www.uni.edu/teachact/> to review additional information about the TEACH Act and UNI.

To evaluate the fair use option, weigh the four factors. If you judge the use to be fair, you may use the work in your class.

In all cases, the copy of the work that is displayed or performed must have been lawfully made. That means, for example, you can display a video borrowed from Rod Library's collection if the UNISTAR record indicates rights have been secured.



Instructors Ask

Q. *I've used an article as a standard reading in the past and my students have paid to include it in their course packs. But recently the library has licensed a database that includes the article. Does that change things?*

A. Yes. Instead of including the article in the course pack, now you can simply link to it in your syllabus and encourage students to use it online.

Q. *What about articles that aren't licensed by the library — how do I share them with my students?*

A. Here are several options:

- If the article is available online via open access, share a link to it.
- If a Creative Commons notice appears on the article, you may share the work with your students.
- If the article is in the public domain, you're free to share it.
- Ask the library about putting the article on reserve.
- Consider whether use of the work is a fair use.
- Ask the library to license an online subscription if there is sufficient campus demand.

Get answers to more of your copyright questions at the ARL "Know Your Copy Rights" FAQ: www.knowyourcopyrights.org/faq/.



Local Practices and Resources

Copyright at UNI:

<http://www.uni.edu/osp/copyright-uni>

Rod Library Copyright Policies:

<http://www.library.uni.edu/copyright-policies>

TEACH Act and UNI:

<http://www.uni.edu/teachact/>

Library Copyright Users Guide:

<http://www.library.uni.edu/library-instruction/subject-guides/copyright>

Directions for Linking to Library Databases:

WebCT: Persistent Links to Articles and Databases

<http://www.library.uni.edu/distance-learners/proxifying-urls>

Recommend for Purchase:

<http://www.uni.edu/library/recommend/>

Contact the Rod Library:

<http://www.library.uni.edu/contact-us>

Rod Library

University of Northern Iowa

1227 West 27th Street

Cedar Falls, IA 50613-3675

319-273-6002 (Course Reserve Desk)

319-273-2838 (Reference Desk)



Brochure Information

This brochure was created by the Association of Research Libraries and modified 2007 by the University of Northern Iowa Rod Library to include local information and practices.

What You Can Do



Often you can use works in your teaching without permission or fee. This chart highlights some of those situations. However, there are other circumstances where permission and/or fee are required (for example, when some types of works are included in course packs). Check with your institution's library or legal office for information about campus copyright policies.

Know Your Copy Rights™		Proposed Use				
		Exhibit materials in a live classroom?	Post materials to an online class?	Distribute readings?	Create electronic reserves?	
Legal Status of Work To Be Used	Works Not Copyrighted	Public Domain Works (US Govt. and pre-1923 works, and certain other works)	Yes	Yes	Yes	Yes
	Copyrighted Works	Your Own Works (if you kept copyright or reserved use rights)	Yes	Yes	Yes	Yes
		Open Access Works (works available online without license, password, or technical restrictions)	Yes	Link	Link	Link
		Electronic Works Licensed by Your Institution (depends on license, but usually permitted)	Yes	Link	Link (Most licenses also allow students to make an individual copy.)	Link
		Electronic Works with a Creative Commons License (depends on license, but usually permitted; if not, LINK)	Yes	Yes	Yes	Yes
		Other Works (when none of above apply)	Yes	Yes, if meets either TEACH Act or Fair Use standards. If not, LINK or seek permission.	Yes, if meets Fair Use standards. If not, LINK or seek permission.	Yes, if meets Fair Use standards. If not, LINK or seek permission.

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www.arl.org

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