

COPYRIGHT: WHAT IS COPYRIGHT?

Copyright is a form of protection provided by [U.S. Code Title 17](#) to the authors or creators of literary, dramatic, musical, artistic, and other intellectual works.

Copyright gives its owner the exclusive right to reproduce the work, prepare a derivative work, distribute copies of the work, perform the work publicly, or display the work publicly. The author can sell or assign any of these rights to someone else, such as a publisher. For works created after 1978, copyright protection is in effect until 70 years after the author's death.

Additional Resources

- [Copyright Clearance Center](#)
- [Copyright & Fair Use](#) (Stanford Univ.)
- [Public Domain](#) (Univ. of North Carolina)
- [Copyright Quick Guide](#) (Indiana Univ., Purdue Univ. & Indianapolis)

Fair Use

Fair Use is a part of copyright law ([section 107 of U.S. Code Title 17](#)) that allows exceptions to copyright law to allow for the needs of students and teachers. Fair Use is a set of guidelines; there are no explicit rules or exact numbers. The factors to be considered in determining fair use are:

- the purpose and character of the use, including whether it is for commercial or nonprofit educational purposes
- the nature of the copyrighted material (type of material, i.e. periodical, film, book)
- the amount and substantiality of the portion used in relation to the whole
- the effect of the use on the potential market for or value of the copyright material

How Does Fair Use Apply to Photocopying for Classroom Use?

The Copyright Act of 1976 requires that photocopying for educational use be of a limited nature, determined by the brevity of the material, the spontaneity and the cumulative effect of the creation. Brevity, spontaneity, and cumulative effect are defined as follows:

- **Brevity**

1. Poetry

- (a) a complete poem, if it is less than 250 words and if it is printed on not more than two pages, or,

- (b) from a longer poem, you may make an excerpt of not more than

250 words
(this limitation may be exceeded to complete a line)

2. Prose

- (a) either a complete article, story or essay, if it is less than 2500 words
- (b) an excerpt from any prose work of not more than 1000 words or 10% of the work, whichever is less, but in any event, a minimum of 500 words (this limitation may be exceeded to complete a paragraph)

3. Illustration

one chart, graph, diagram, drawing, cartoon, or picture per book or per periodical provided that the individual item is not copyrighted

- **Spontaneity**

The copying is at the instance and inspiration of the individual teacher, AND the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

- **Cumulative Effect**

This phrase means the effect of copying on the marketability or profitability of the work.

Frequently Asked Questions About Fair Use and Classroom Copying

May I make a copy of an article, poem, or chapter for each member of my class?

It is permissible to make multiple copies as long as the amount of material passes the brevity test (see above) and is used only for one semester. If you plan to use the same material each semester, permission needs to be obtained from the publisher.

May I make copies of a favorite article for my students every semester?

No, repeated use would not pass the spontaneity test. You should request permission to duplicate the material.

May I copy several chapters of a book for my students?

No, copying several chapters does not meet the brevity test; also, it could affect the author's profit from his work.

As I use the same articles each semester, may I make up a packet and then just have one photocopied for each student?

No, this accumulation constitutes a course-pack, and heavy fines have been levied for duplicating these without permission. If you want to use articles or other parts of published works each semester, you need to get permission from the publisher.

May I copy sheet music to use in the classroom?

For use in the classroom, you can make copies of an excerpt of not more than 10% of the whole work.

May I use photocopied music for performance?

No, performance of photocopied music is a copyright violation. However, you may make a copy, on an emergency basis, to replace a purchased copy which has been lost or destroyed.

How Does Fair Use Apply to Online Learning?

Fair Use guidelines also apply to online learning and distance learning environments, including closed circuit television or Blackboard course management software. In addition to the guidelines of brevity, spontaneity, and cumulative effect, limited access and limited time are also important in distance education. Limited access means that only those enrolled in the class may have access to the material. Limited time means that the material will be available only during the time the class is given, typically one semester.

In 2002, the United States Congress passed the Technology, Education, and Copyright Harmonization Act (TEACH Act) that updates copyright law pertaining to transmissions of performances and displays of copyrighted materials. Such transmissions are critical to distance education efforts and online courses. These updates, as specified in [section 110\(1\)](#) of the Copyright Act of 1976, allow educators permission to "perform" or "display" copyrighted works within a classroom setting or non-traditional online educational environment.

Under the TEACH Act, copyrighted material may be used as long as the institution:

- maintains institutional accreditation
- creates an institutional copyright policy
- provides copyright resources for faculty and students

Material referred to by the TEACH Act is only granted copyright compliance for ONE semester and cannot be retained for future use. Students must also be notified that material distributed or posted that course period may be subject to copyright protection. All copyrighted material which is distributed for classroom use should be labeled with the following:

**NOTICE: THIS MATERIAL MAY BE PROTECTED BY COPYRIGHT LAW
(Title 17 U.S. Code)**

How do I apply the Fair Use guidelines in a Blackboard course*?

- Make sure the portions of copyrighted material you are using in your course meet the standards of the Fair Use guidelines.
- Only connect students to content which has been obtained legally and has not been reproduced from an original.
- Put the copyrighted material in a section of your Blackboard course site that is secured (using Course Options in the Control Panel).
- Copyrighted material should be made available (using the *Availability* option on your content) for no more than a 15-day period, and students should be instructed to not make their own copies of the material but to read it online only.

*Adapted from [Blackboard Copyright, Fair Use, & Educational Multimedia FAQ \(PDF\)](#).

Frequently asked questions about Fair Use and Blackboard

May I digitize copyrighted materials to a webpage on the Internet?

No, it would not be permissible to put these same materials on a Website, as access to them would be open (not protected by password) and there would be no time limitations.

May I link to articles from the Library's databases, such as Academic OneFile or Academic Search Premier, in my Blackboard course?

Yes. This use is permitted by the database vendors, who have already paid the copyright fee..

May I create a telecourse segment containing copyrighted text, video, audio, and photographs that are relevant to the class without obtaining permission to use the copyrighted materials?(Only students in the class will have access to the telecourse.)

Yes. Most experts believe that showing the videotape to students enrolled in the telecourse is a fair use.

How Does Fair Use Apply to Media?

Fair Use applies to all copyrighted works regardless of the media in which they are fixed: print, electronic, or multimedia. Frequently, college classes include the performance of audiotapes, CDs, DVDs, or videotapes. Showing or playing one of these items, whether purchased or rented, is considered a performance of the copyrighted work.

These activities are permitted if they meet all of the following guidelines:

- The performance must be performed by the instructor or pupil(s) (not by a performance artist).
- The instructor and pupil(s) must be in the same place (transmissions by television, etc., do not qualify here).
- The activity must be a teaching activity and not recreation or entertainment.
- The activity must be put on by a nonprofit educational institution.
- The activity must take place in a classroom or other area used as a classroom for systematic instructional activity.

In the case of performance of a videotape or movie, the copy of the work performed must have been lawfully made. For example, one cannot show an archival copy of a videotape since it would not have been made in accordance with the provisions of the copyright law (see ***Frequently Asked Questions About Fair Use and Media*** below).

Another common use of copyrighted media in academic situations is in the creation of a multimedia work. In general, students and instructors may create multimedia works for face-to-face instruction, directed self-study, or for remote instruction provided that the multimedia works are used only for educational purposes. Instructors may use their multimedia works for teaching courses for up to two years after the first use.

Frequently Asked Questions About Fair Use and Media

May I rent a video to show as part of my class?

Teachers may borrow or rent a videotape or audio-recording to use in a classroom setting. This permission applies even to videotapes licensed for *Home Use Only*, as long as they are used in a face-to-face teaching (classroom) situation.

May I record a video from television to show in my class?

Yes, you can tape it and use it in your class, but may only retain it for 45 days.

May I make a copy of a videotape or DVD for later use or to distribute?

No, creating multiple copies is not permissible.

May I create a multi-media project to show it in class without obtaining permission?

Photographs, music, or video may be used in a classroom, as long as access to the presentation will be limited to class participants. The copyright fair use provision explicitly provides for classroom use of copyrighted material. Instructors and students may perform and display their own educational projects or presentations for instruction.

May I play sound recordings or music in class? What about online classes?

Yes, as long as the original recordings or sound files are obtained legally and the performance of the material is done within a classroom or secure Blackboard course.