

Copyright in the Classroom

A Quick Guide

What is Copyright?

Copyright is a form of intellectual property law that protects the rights of creators over their original works. By default, copyright law gives a creator the sole rights to determine how their work is used, reproduced, distributed, adapted, or displayed.

Sharing copyrighted works in the classroom without infringing on copyright can be confusing. However, there are some exemptions in copyright law for navigating that.

Exemptions in Copyright Law

The following exemptions permit use of copyrighted materials on a limited basis without permission or payment of royalties:

Classroom Use

This is a limited exemption permitting instructors to **perform or display** copyrighted material in class.

To qualify for this exception, you must be:

- In a classroom (“or similar place devoted to instruction”);
- In person (engaged in face-to-face teaching activities); and
- At a non-profit educational institution

Online Instruction/Distance Education (TEACH Act)

This law expands the Classroom Use exemption to distance education and online courses, provided:

- The work is used as an integral part of a class session (directly related to the teaching content);
- The work is used as part of mediated instructional activities analogous to activities of face-to-face classroom instruction;
- The work is used under the supervision of an instructor;
- The work is not primarily marketed for the purposes of distance education (i.e., an electronic textbook);
- The work is available only to students enrolled in the class;
- The work is only available for the duration of a class session or course;
- Reasonable efforts are made to prevent students from redistributing the copyrighted work; and
- Digital copies of the work are made only if the content is not otherwise digitally available.

If your use does not meet these exemptions, permission from the copyright holder is required unless your intended use falls under Fair Use.

Fair Use

Fair use allows you to use copyrighted materials without permission in certain circumstances. Courts decide whether a use meets the criteria for “Fair Use” on a case-by-case basis after balancing four factors:

1. **The purpose and character of use:** Is it just a copy, or is your use transformative? Is your use commercial or educational?
2. **The nature of the original work:** Was the original work creative or primarily factual?
3. **Amount of the original work used:** How much of the original work was used, and was that amount necessary?
4. **The effect on the original work:** Would people buy this work instead of the original? Does your use deprive the original work owner of income?

Think of this list as a rubric with many possible values, not a checklist. You should always consider each of these factors and the specific circumstances of each intended use when assessing Fair Use, and **document your assessment and reasoning**.

Public Domain Works

Public Domain works can be used by anyone at any time without permission from the copyright holder. There are three main categories of public domain works:

1. Works that automatically enter the public domain upon creation, because they are not copyrightable:
 - a. Ideas and facts (e.g., the date of the Gettysburg Address)
 - b. Government works and documents
2. Works that have been assigned to the public domain by their creators:
 - a. Works assigned a CC-0 copyright license
3. Works that have entered the public domain because their copyright has expired
 - a. Works published prior to 1923

Copyright vs. Plagiarism

Even if you are reusing work from the public domain, you still have to cite the original author. As an academic author, it is important to avoid both plagiarism and copyright infringement in your work.

- **Plagiarism:** The appropriation of another person’s ideas, processes, results or words without giving appropriate credit.
- **Copyright Infringement:** Reproduction, distribution, performance, display, or creation of a derivative work of a copyrighted work without legal permission of the copyright owner.

What is licensing?

Licensing is permission from a copyright holder to use their work in a way that is normally restricted by copyright law. Permission can include some or all of the exclusive rights of copyright holders (reproduction, distribution, performance, display, and creation of derivative works). One popular set of licenses that exist for this purpose are Creative Commons licenses.

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You can learn more about CC licenses on the Creative Commons website: www.creativecommons.org.

Do I need to ask for permission?

You do NOT need to ask permission if:

- The resource is in the public domain.
- Your intended use falls within a copyright exception or limitation (see above)
- The way that you want to use the resource is in compliance with the terms a copyright license (i.e., through a Creative Commons license).

You DO need to ask permission if:

- You wish to use a resource that is under copyright, and without permission your intended use would be infringing on the owner's rights.
- You wish to use a resource in a way that is *beyond* the scope of the permission granted to users in an applicable copyright license.

You SHOULD ask for permission or seek clarification if:

- You are uncertain about whether your intended use is permitted by an applicable copyright license.
- You are uncertain about whether a work is protected by copyright.
- You are uncertain about whether your intended use falls within a copyright exception or limitation, such as Fair Use.

Copyright Support on Campus

Office of University Counsel

For legal assistance and advice

Phone: (515) 294-5352

Email: univcounsel@iastate.edu

University Library, Course Reserves

For permissions, reproductions, and reserve items

Phone: (515) 294-4958

Email: ereserve@iastate.edu

University Library, Abbey Elder

For questions about OER and open licenses

Phone: (515) 294-5753

Email: aelder@iastate.edu

ISU Book Store

For course packet permissions

Phone: (515) 294-0362

Email: isubookstore@iastate.edu

Dean of Students Office

For accessibility needs and accommodations

Phone: (515) 294-1020

Email: dso@iastate.edu