Copyright and Fair Use Information for Educators

These are general guidelines for using copyrighted material in the classroom. Think of these guidelines as "guardrails." This information does not constitute legal advice. Before duplicating a work for educational purposes, do a little research. When in doubt, check it out—always seek permission from the copyright owner or consult with an attorney if necessary!

Copyright laws protect the intellectual property of writers, musicians, videographers, photographers, artists, and others who author or produce original works and ideas.

Compilations, such as phone directories, ideas and works in the public domain, publicly known facts, and works created by federal employees as part of their official job duties cannot be copyrighted.

Public Domain

Works in the "public domain" include creative works not protected by copyright that anyone may freely use. This may include works for which the copyright has expired, works for which the original author failed to secure a copyright or intentionally relinquished it, or for many works published by the U.S. federal government.

People often hold the common misperception that all works funded by the government fall in the public domain. However, contractors performing work on behalf of the federal government and state employees may copyright their works, unless previous contracts or written agreements stipulate otherwise.

Fair Use

The Fair Use Doctrine provides for limited use of copyrighted works without having to seek permission from the copyright owner. No universal guidelines exist for determining what constitutes fair use. Instead, the decision to use materials must consider four factors:

- The purpose and character of the use. Typically, commentary, new reporting, parody, and criticism provide an appropriate context for fair use. Personal, nonprofit, and educational purposes are more likely to fall under fair use. Commercial uses can sometimes be allowed, if the content has been repurposed.
- The nature of the work. Using work belonging to someone else requires getting permission well in advance. The use of unpublished or artistic works is less likely to fall under fair use.
- The amount of the work to be used. As a rule of thumb, using 10 percent of the work or less may be permissible. The consideration of fair use becomes less as more of the work is used.
- The marketability of the work. Use cannot compete with sales to the intended audience or in any way diminish owner royalties.

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Court decisions have simplified fair use considerations to two questions:

1. Is the intended use of the work transformative? In other words, does it repurpose the work for a new audience?
2. Is the quantity of the work to be used appropriate to achieve the transformative purpose?

What Can be Used?

Generally speaking, instructors may use materials for a limited time in the following proportions:

- A chapter from a textbook or manual.
- An article from a magazine or newspaper.
- A short story, essay, or poem from one author.
- A chart, graph, illustration, or photo from a book, magazine, or newspaper.

Words for the Wise

- Use reliable, credible sources. Be especially conscientious with internet resources, which may be copyrighted (even if no copyright notice, such as on certain media), posted illegally, or inaccurate.
- Never copy an entire book or magazine.
- Paraphrasing is not necessarily a solution:
  - o Can include 1) restating in your own words, and 2) significantly changing the style structure without changing the main ideas.
  - o Does not mean changing a few words.
  - o Even "honest mistakes" are not legal or acceptable.
  - o Paraphrased content must have a citation.
  - o If you change the ideas, you are misrepresenting the original information.
- If the use seems to satisfy fair use criteria, credit the source for text, images, and video for professionalism and for credibility.
- Note: Citation is also a good idea so that you can keep track of the sources of your course or module content. In a year or two, you may not remember where you obtained a photo or a quoted page of text, but the citation will remind you.
- Use recent, easy-to-verify resources.
- Gather classroom materials well in advance of when you need them to avoid the temptation of making unauthorized copies.
- Seek permission to use copyrighted materials as early as possible, and keep a copy of the permission information once received.
  Note: Organizations, agencies, and companies may have formal processes you must follow to request permission to use their content. You can usually find these requirements on their websites. With individuals who are copyright holders, you should email the individual. Keep a copy of all of the responses you receive.
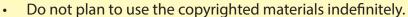
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- Do not plan to use the copyrighted materials indefinitely.
- Just because something is online, does not automatically mean it is in the public domain. This includes federal government publications. Check the copyright information for each website when gathering information from online sources.

   Note: In many government publications, you can find the copyright information in the first few pages of the document. You may also find a statement about the allowable use of the content, as well as the preferred way to cite the title as a source. Do not ignore copyright restrictions: it can cost you and your employer.

- Create your own, original work and avoid copyright issues.
- Credit all sources for credibility, for a visible record of sources/ownership, and for professionalism/good practice. Many organizations host websites that help explain what constitutes fair use for educators, including the Library of Congress, http://www.loc.gov/teachers/usingprimarysources/copyright.html.

For educators, sometimes the factors that define fair use are not clear-cut. Do what is right and use and cite your resources properly.

As for Your Learners…

- Talk to them about copyright. Explain the proper way to cite resources.
- Encourage learners to make use of an online plagiarism checker to scan their work. Some learning management systems even have a plagiarism check built in.
- Instead of copying questions from a website or textbook for learners to answer, create assignments that require learners to think independently and apply their knowledge.
- Make learners aware of any policies concerning learner conduct and the expectations for academic honesty. If your school or agency has an honor code, consider asking learners to sign a statement promising they will abide by it.
- Watch for consistency in each learner's work. If a person has a history of making grammatical errors, but then turns in a particularly well written assignment, it could be that the person copied someone else's work, perhaps even unintentionally.

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