

The background of the slide features a photograph of a grand, classical building facade, likely a university hall, with ornate columns and a curved pediment. An American flag is flying on a tall pole in the foreground on the right side. The sky is clear and blue.

University Copyright Office

A Guide to Copyright

PURDUE
UNIVERSITY

The Purdue University Copyright Office was established to provide guidance to faculty, staff, and students on the use of copyrighted material and to promote copyright awareness and compliance throughout the Purdue community. *Purdue Policy I.A.3: Use of Copyrighted Materials for Educational and Research Purposes*, www.purdue.edu/policies/academic-research-affairs/ia3.html.

This publication is intended to provide an overview of portions of the copyright law that are especially relevant to education and research activities. Copyright law is complex and it is beyond the scope of this brochure to address every aspect of the law. Many times there are no simple answers, but a cursory understanding of the basics will help you determine when to consider copyright issues as you learn, teach, and research here at Purdue.

WHAT IS COPYRIGHT?

Copyright protects creative works and is a federal law. It allows authors to control the use of their works for a limited period of time. Once that time period has expired, the public is allowed to freely use the works without paying royalties and/or obtaining permission from the copyright holder.

#1 | What are the requirements for a work to be copyrighted?

The work must be an original work that is fixed in a tangible medium of expression. The word “copyright” or © is no longer required for works to be considered copyrighted. A work is protected from the moment of fixation.

#2 | What are the copyright holder's exclusive rights?

- › To publish or distribute the work
- › To create derivative works
- › To authorize others to exercise the above rights
- › To reproduce the work
- › To perform or display the work publicly

#3 | How long does copyright protection last?

Works created on or after January 1, 1978 are protected for a term of the life of the author plus 70 years. If the work is a product of a corporate author, then the protection is for the shorter of 95 years from publication or 120 years from creation.

#4 | What *can* be copyrighted?

Eight categories of works are copyrightable:

- › Literary, musical and dramatic works
- › Sound recordings
- › Compilations and derivative works
- › Pantomimes and choreographic works
- › Motion pictures and other AV works
- › Architectural works
- › Pictorial, graphic and sculptural works
- › Computer programs

#5 | What *cannot* be copyrighted?

- › Ideas, procedures, methods, systems, and processes
- › Titles, names, short phrases, and slogans
- › Works produced by US government employees or agencies
- › Facts, news, and research

#6 | What is the public domain?

The public domain consists of all works that never had copyright protection, such as US government works, and works on which copyright has expired. Works published in the U.S. prior to 1923 are in the public domain. All works in the public domain are free for the public to use.

AN INTRODUCTION TO COPYRIGHT

USE OF COPYRIGHTED WORKS

Exceptions for institutions of higher education are built into the law allowing for use of copyrighted works without the author's expressed permission under specific circumstances. There are two major exceptions that are generally used in higher education: the Education Exception which is split into two categories-face-to-face instruction and virtual instruction-and Fair Use.

Face-To-Face Instruction

Instructors in nonprofit educational institutions are allowed to use legally obtained copyrighted works in the classroom or a similar place devoted to instruction under specific circumstances provided that the material is directly related to course content.

Here are some examples of answers to the most commonly asked questions:

- › Instructors involved in face-to-face teaching activities can lawfully show a video or movie in class provided that it is relevant to the course and is not being shown for entertainment purposes
- › Images, video clips, and music embedded in power point presentations used in face-to-face teaching activities are considered acceptable uses of copyrighted works. Images, however, generally should not be included in power point slide handouts
- › Instructors may distribute copies of single journal articles or book chapters in class as long as the distribution does not substitute for the purchase of a textbook or course pack
- › Duplicate copies of articles are considered fair use unless you compile several works into a packet for distribution. The compilation is considered a new work and permission to use the various works is needed

Virtual Instruction

Virtual Instruction refers to classes in which instruction takes place exclusively online as well as hybrid courses with a classroom component and a complementary online instructional site such as Blackboard. In either case, instructors are allowed to digitally transmit materials as long as all of the following requirements are met:

- › Uses of works should be related to course content and should be limited to an amount comparable to what is typically displayed in a face-to-face classroom setting
- › Transmission must be made solely for and limited to students officially enrolled in the class
- › A notice must be provided explaining to students that the works may be protected by copyright and should not be distributed beyond the class participants
- › The material must be legally acquired
- › Textbooks, course packs, or other materials that are typically purchased by students for the course should not be transmitted
- › Access to the materials must be terminated at the end of the official class term
- › Analog works cannot be converted into digital works unless no digital version is available. Any conversion is restricted to the amount that would be used in a traditional classroom. No further copies can be made from copies
- › Instructors should provide links to outside materials within course websites rather than scanning and posting a .pdf file of, for example, a journal article

USE OF COPYRIGHTED WORKS

FAIR USE EXCEPTION



The purpose of the fair use exception is to allow the public to use copyrighted works under certain circumstances without having to pay royalties or obtain permission. Fair use is determined by applying a four factor analysis that balances the rights of the copyright holder with that of the public. The four questions are designed to help a user decide if the planned use of the work is fair under the law.

Factor #1 What is the purpose and character of the use?

Favors Fair Use:

- › Non Profit
- › Educational
- › Personal
- › Teaching
- › Criticism / Comment
- › Scholarship / Research
- › News reporting

Favors Permission:

- › Commercial
- › For Profit
- › Entertainment

Factor #2 What is the nature of the work to be used?

Favors Fair Use:

- › Fact
- › Published

Favors Permission:

- › Creative
- › Unpublished

Factor #3 How much of the work will be used?

Favors Fair Use:

- › Small Amount

Favors Permission:

- › Large Amount
- › Heart of the work

Factor #4 What is the market effect of the use of the work?

Favors Fair Use:

- › Small Amount
- › No effect
- › Licensing/permission unavailable

Favors Permission:

- › Large Amount
- › Major effect
- › Work is made available to the world

If the balance of the four factors weighs in favor of fair use then the work can be used without obtaining permission from the copyright owner. However, if the balance weighs against fair use and other exceptions do not apply, then permission to use the work must be obtained. The fair use analysis must be applied to each use of every work. Fair use is technologically neutral so the analysis may be used for any medium.

Please be aware that not all educational use is automatically fair use. It is the responsibility of each member of the Purdue University community to apply all the factors and to make a reasonable and good faith determination as to whether or not the use can be considered fair.

FAIR USE EXCEPTION

YOUR COPYRIGHT OWNERSHIP

Almost everyone is an author in some way. You generally own the copyright to your works such as self-created websites, photographs, emails, home videos, as well as the works produced in your roles as students and researchers. It is important to understand your rights as an author, as well as the ways in which you can better protect your intellectual property.



For further information, on the management of intellectual property at Purdue, review *Purdue Policy I.A.1: Intellectual Property*; www.purdue.edu/policies/academic-research-affairs/ia1.html.

MANAGEMENT STRATEGIES

For scholars, shifts in information dissemination have led to significant changes in the publishing industry. These changes highlight the need to consider how you have managed your copyrights in the past and how you plan on managing them in the future.

For example:

- › Negotiate with publishers if the terms of the copyright transfer agreement do not meet your goals as a scholar.
- › In the past you may have transferred all your copyright to the publisher. New options for retaining some of your author rights exist such as the use of the CIC author addendum. Visit www.lib.purdue.edu/uco/ForResearchers/author_rights.html#management for details.
- › Consider publishing your works in open access journals that allow you to retain your copyright
- › There is a provision in the copyright law that may, under certain circumstances, allow you to reclaim your copyright that you transferred in the past. Please contact the University Copyright Office for more information about this provision.

COPYRIGHT IN CYBERSPACE

It is important to understand that copyright issues exist in cyberspace above and beyond the use of the medium as an instructional tool. Because the Internet provides free access to information and ample opportunities for everyone to be an author, it is fertile ground for copyright infringement. The following will help you determine lawful use of information found and posted on the Internet:

- › Information on the Internet is copyrighted. Free access to materials does not put them in the public domain
- › Fair use exists in cyberspace
- › Posting copyrighted works to social media sites is governed by each sites' terms of use. Familiarize yourself with them since it is a legally binding contract. In addition, posting someone else's copyrighted works on these sites can be considered copyright infringement unless its use is authorized by the copyright law or the owner of the work
- › Downloading and/or file sharing of video, music, and other works may be considered copyright infringement unless authorized by the copyright law or the owner of the work
- › Only legal copies of digital works should be used
- › Authors of published works should consult the terms of copyright transfer agreements to determine if it is lawful to post the published work on a personal website before doing so

For further information on copyright compliance, please visit the University Copyright Office website at www.lib.purdue.edu/uco or contact the office by telephone at (765)496-3864.

This publication is intended to provide basic copyright information while focusing on issues related to higher education. It is not intended as legal advice. Please consult your own attorney for such advice.

UNDERSTANDING YOUR RIGHTS

NOTES

Questions to Think About When Creating a Work

1. How do I get ideas for my work?
2. How do I create my work?
3. Where do I obtain content for my work?
4. Do I base my work on other works?
5. What do I want to do with my work when it is published?

Formulate Your © Strategy

1. Is the work I want to use protected by copyright?
2. Am I using a legal copy of the work?
3. Does the Education and/or Fair Use exception(s) apply?
4. Do I need to obtain written permission to use the work?

The Director of the University Copyright Office is available for presentations at your faculty, staff, and/or student orientations or meetings. Please use the contact information below to set up a consultation.

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