



# Copyright for Faculty

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# : The Essentials

1. Brief description of the law and it's purpose
2. Fair Use & the Four Factors
3. Examples

A [Resources](#) list is at the end of this presentation.

# Copyright Law of the United States of America

[http://www.archives.gov/exhibits/charters/constitution\\_transcript.html](http://www.archives.gov/exhibits/charters/constitution_transcript.html)

“To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;”

~United States Constitution, Article I, Section 8

[Title 17 of the U. S. Code](#) – contains copyright regulations

For practical purposes it is a collection of revisions, treaties and court cases.

It is periodically amended by Congress to meet the demands of society.

The current pace of technological development poses significant challenges to legislators as they make modifications to the regulations.

# “Copy Rights”

## What are they?

### § 106 . Exclusive rights in copyrighted works<sup>38</sup>

Subject to [sections 107 through 122](#), the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to **reproduce** the copyrighted work in copies or phonorecords;

(2) to **prepare derivative works** based upon the copyrighted work;

Definition: [https://www.law.cornell.edu/wex/derivative\\_work](https://www.law.cornell.edu/wex/derivative_work)

Example: <https://youtu.be/OGQfl66r30o> - permission was probably given to a British charity, Text Santa

(3) to **distribute copies** or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to **perform** the copyrighted work publicly;

(5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, *including the individual images of a motion picture or other audiovisual work*, to **display** the copyrighted work publicly; and

(6) in the case of sound recordings, **to perform the copyrighted work publicly by means of a digital audio transmission.**

# Fair Use

<http://www.copyright.gov/fls/fl102.html>

- Copyright is subject to certain limitations found in sections 107 through 118 of the Copyright Law
- Whether or not these limits can be applied in individual situations is determined by the **Four Factors** written into Section 107

# **The Four Factors**

Balance is the key

# Factor One

The *purpose and character of the use*, including whether such use is of a commercial nature or is for nonprofit educational purposes



# Factor Two

The *nature* of the copyrighted work

# Factor Three

The **amount and substantiality of the portion used**  
*[by you]* in relation to the copyrighted work as a  
whole

~ AND ~

# Factor Four

The *effect of the use upon the potential market* for or value of the copyrighted work

# The Four Factors

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
2. The nature of the copyrighted work
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole
4. The effect of the use upon the potential market for or value of the copyrighted work

# Remember

## Balance is the key

- There is no bright line.
- Out of print does not mean out of copyright.
- You can always link to a legitimate website or library database.

(1)

# If I own a book, can I copy a chapter and distribute it to my class?

Yes.

- If it meets the requirements of Fair Use. Use the Fair Use Checklist, available on <http://library.trocaire.edu/Resources/Copyright.html> to determine if the use is balanced.

Yes.

If it is not

- the “heart of the work.”
- 10% or more of the book

Yes.

- If it is for classroom instruction and distributed only to students enrolled in the class.

Yes.

- If you have written permission of the copyright holder.

Yes.

- If the library owns the book.

(2)

# Can I copy an article from a journal for distribution to my students?

Yes.

- Use the Fair Use Checklist.
- It is best to plan ahead and request permission.

Alternatively

- Link to the article or a substitute in one of the library's databases.
- Ask the library to make a copy, place it on the website, and provide the link to students in your class. This is a modified *Electronic Reserve* system.

(3)

What published works can I post on Moodle for my class?

See questions 1 & 2.



(4)

## What types of videos (documentary & performance) can I show in my class and post to Moodle?

*First of all, for technical and space reasons, we can not post any video on Trocaire's Moodle system.*

- You can link to any legitimate web site or library database.
  - Examples are YouTube, Kanopy, and library videos that have performance rights.
- Request permission from the copyright holder.

(5)

## What is the best source of fair use video for my class?

- YouTube
- The library
- Any video that is lawfully made.
  - Do not break or override the digital security on a DVD to enable streaming. It is against the law. Seek permission if this is your only option.
- Remember, the use must pass the Fair Use checklist.

# Resources

## **Fair Use**

Copyright Advisory Office, Columbia University.

<http://copyright.columbia.edu/copyright/fair-use/what-is-fair-use/>

## **Fair Use Checklist**

<http://library.trocaire.edu/Resources/Copyright.html>

## **General Information**

Shedding Light on Copyright, Brigham Young University Copyright Office.

<http://sites.lib.byu.edu/copyright/>

## **Is It in the Public Domain?**

Copyright Term and the Public Domain in the United States, Brigham Young University Copyright Office.

<http://copyright.cornell.edu/resources/publicdomain.cfm>

The Copyright Genie. Michael Brewer and the ALA Office for Information Technology Policy.

<http://librarycopyright.net/resources/genie/index.php>

Is It Protected by Copyright?, Brewer, Michael and the ALA Office for Information Technology Policy.

<http://librarycopyright.net/resources/digitalslider/>

## **Find Work Relatively Free of Restrictions**

Creative Commons. <http://search.creativecommons.org/>

## **Sample Permission Letters from NYU**

<http://guides.nyu.edu/content.php?pid=133679&sid=1208117>

## **Can Not Find the Owner?**

<http://copyright.columbia.edu/copyright/permissions/if-you-cannot-find-the-owner/>