

Copyright

Frequently Asked Questions

Plagiarism vs. Copyright

Plagiarism and copyright each address the legitimacy of copying, but plagiarism and copyright differ in important ways. While plagiarism is concerned with the protection of ideas, copyright doesn't protect ideas – it protects "fixed expressions of ideas."

Plagiarism is the act of misrepresenting the ownership of an idea. In school, it usually means passing off someone else's ideas as your own in a research paper or other academic work. Plagiarism is wrong, dishonest, and can lead to serious negative consequences in any school or professional setting. One way to avoid plagiarism is to properly cite your sources – a key academic skill.

By contrast, copyright is a legal concept extensively embodied by U.S. laws and policies. Copyright law permits individuals to make copies under certain conditions, but violating certain copyright rules is copyright infringement. You can't avoid a copyright infringement claim just by citing your sources (though it may still be the right thing to do).

What does the TEACH Act Cover?

Amendments to Section 110(2) of the Copyright Act, commonly identified as the Technology, Education and Copyright Harmonization Act of 2002, were adopted as a part of the 21st Century Department of Justice Appropriations Authorization Act (the "TEACH Act"). The TEACH Act addressed the use of copyrighted materials by accredited nonprofit educational institutions in distance education.

- The TEACH Act expanded the range of allowed works, deleting the exclusion of broad categories of works, as did the former law. However, a few narrow classes of works remain excluded, and uses of some types of works are subject to quantity limitations. For example, performances of non-dramatic literary and musical works are permitted as before, but performances of dramatic works are now permitted but are restricted to "reasonable and limited portions" of a work, typically the amounts displayed in a face-to-face classroom setting. However, works that are marketed "primarily for performance or display as part of mediated instructional activities transmitted via digital networks"; and performances or displays given by means of copies "not lawfully made and acquired" under the U.S. Copyright Act, if the educational institution "knew or had reason to believe" that they were not lawfully made and acquired are specifically excluded from performance and display in distance learning.
- The TEACH Act expanded the types of permitted receiving locations, deleting the limitation that content may only be transmitted to classrooms and other similar locations, now allowing educational institutions to reach students through distance education at any location.
- The TEACH Act clarified when storage of transmitted content is permitted. Educational institutions are allowed to record and retain copies of the distance-education transmission, even if it included copyrighted content owned by others, and permits retention of the content and student access for a brief period of time, and it permits copying and storage that is incidental or necessary to the technical aspects of digital transmission systems.
- The TEACH Act permitted the digitization of some analog works, but in most cases only if the work is not already available in digital form.
- The TEACH Act requires that performances and displays of copyright protected materials must be part of mediated instruction under an instructor's supervision, meaning they are the kind of thing the instructor would show or play during a face-to-face class.
- The TEACH Act requires that access to copyright protected materials be restricted to enrolled students and only to the extent technologically necessary.
- The TEACH Act obligates educational institutions to apply technology protection measures that prevent retention of the work for longer than necessary or other copying or dissemination.

- The TEACH Act exempts students in distance education courses from liability for copyright infringement for any temporary reproductions of material that occurs through the technical processes of digital transmission.
- The TEACH Act requires instructors to inform students that works seen in the online class may be protected by copyright.

Use of distance learning systems meet the TEACH Act's stipulations on access, dissemination and retention of materials.

What Might be Considered "Fair Use" in the Educational Context?

Guidelines on the use of certain types of copyright protected works in the classroom were published as part of the legislative history of the Copyright Act of 1976. The Conference on Fair Use made an attempt to negotiate guidelines for use of copyright protected materials in distance learning, multimedia, image and electronic reserve by eliciting the comments of legal scholars, lawyers, politicians, copyright owners and other interested parties. But these guidelines are long and complex, none of the participants were satisfied with them, and they will not serve as a "safe harbor" against litigation. It is also important to note that fair use guidelines in the educational context do not necessarily translate into a "safe harbor" for purposes other than education. Ultimately, it is important to be reasonable when using copyright protected materials, and the adapted version of the various guidelines provided below can assist you with determining what is reasonable.

Guidelines for "Fair Use"

Print

Chapter in a book

Fair use (permission not required)

- Single copy used by an instructor for research, teaching or class preparation
- Multiple copies (one per student per class) if the chapter is brief, spontaneously copied and in compliance with the cumulative effect test (see below)
- Copyright notice and attribution included

Newspaper/magazine article

Fair use (permission not required)

- A complete work of less than 2,500 words
- For longer articles, excerpts of up to 1,000 words or 10 percent of the work, whichever is less (a minimum of 500 words)
- Articles covered in the previous two bullets may be expanded (e.g., the number of words increased) to permit the completion of an unfinished prose paragraph)
- Copyright notice and attribution included

Poems

Fair use (permission not required)

- Copies of the entire poem if it is less than 250 words and printed on no more than two pages
- 250 words of a longer poem
- Articles covered in the previous two bullets may be expanded (e.g., the number of words increased) to permit the completion of an unfinished line of a poem)
- 5 poems by different poets from a collection
- 3 poems (or excerpts) per poet from the same collective work or periodical volume
- Copyright notice and attribution included
- A notation if alterations are made

Infringing Use - Not "Fair Use"

- Multiple copies used semester after semester without permission
- Multiple copies that create an anthology
- Multiple copies intended to avoid the purchase of a textbook or other materials
- Using an unlawfully acquired copy as the original

Photographs, illustrations and graphic images (including charts, diagrams, graphs, drawings, cartoons and Web images)

Fair use (permission not required)

- Copying a photo, illustration or image in its entirety, but no more than five images from one artist
- Using images from a published collective work, but no more than 15 images or 10 percent of the work, whichever is less
- Copyright notice and attribution included
- A notation if alterations are made

Infringing Use - Not "Fair Use"

- Making and distributing multiple copies
- Making copies to avoid purchase
- Incorporating or altering the image as an embellishment or decoration for artistic purposes that aren't temporary
- Using an unlawfully acquired copy as the original

Numerical data sets

Fair use (permission not required)

- Copying up to 10 percent or 2,500 fields or cell entries, whichever is less
- Copyright notice and attribution included
- Noting if alterations were made (alterations must support an instructional objective)

Infringing Use - Not "Fair Use"

- Making and distributing multiple copies
- Distributing multiple copies semester after semester
- Using an unlawfully acquired copy as the original

Video or animation

Fair use (permission not required)

- Copying up to 3 minutes or 10 percent of the work, whichever is less
- Copyright notice and attribution included
- A notation if alterations are made
- Copied spontaneously

Infringing Use - Not "Fair Use"

- Making and distributing multiple copies
- Distributing multiple copies semester after semester
- Making copies to avoid purchase
- Incorporating or altering the image as an embellishment or decoration for artistic purposes that aren't temporary
- Using an unlawfully acquired copy as the original

Music and lyrics (including sheet music, songs, lyrics, musical scores or recordings)

Fair use (permission not required)

- Copy up to 10 percent in print, sound or multimedia form, but no more than 30 seconds of an individual work
- Copyright notice and attribution included
- A notation if alterations are made

Infringing Use - Not "Fair Use"

- Making and distributing multiple copies
- Distributing multiple copies semester after semester
- Making copies to avoid purchase
- Using an unlawfully acquired copy as the original
- Changing the basic melody or fundamental character of the piece

Broadcast program

Fair use (permission not required)

- Single copy of off-air simultaneous broadcast used within a period not to exceed the first 45 consecutive calendar days after the recording date
- Copyright notice and attribution included
- No alterations
- Used only by individual instructors

Infringing Use - Not "Fair Use"

- Making and distributing multiple copies
- Distributing multiple copies semester after semester
- Making copies to avoid purchase
- Using an unlawfully acquired copy as the original

What Rules Govern Film Screenings at MAC?

Section 110(1) of the Copyright Act allows instructors and students to show films the course of face-to-face teaching activities.

In order to fit within this exemption, the screening must meet the following criteria:

- They must be shown as part of the instructional program.
- They must be shown by students, instructors or guest lecturers.
- They must be shown either in a classroom or other location devoted to instruction.
- They must be shown either in a face-to-face setting or where students and faculty are in the same building or general area.
- They must be shown only to students and/or educators.
- They must be using a legitimate (that is, legally reproduced) copy.

For all other screenings, including screenings by clubs or student groups, permission to show copyrighted works is required.

Swank Motion Pictures (<http://colleges.swankmp.com/>) and Criterion USA (<http://www.criterionpicusa.com/>) sell licenses for many recent feature films. Permission can also be obtained by contacting the current distributor of the film.

Films in the public domain, or films that have been purchased with public performance rights can be screened without permission from the distributor.

If There's No Copyright Mark or Symbol, Does that Mean the Work has not been Copyrighted?

No. Works published since March 1, 1989, are not required to include a copyright mark or notice to gain protection under the law.

Is Material I Obtained from the Internet Considered Public Domain?

Works protected by copyright are not in the public domain unless the owner explicitly puts them into the public domain, the copyright protection has expired, or the works were created by employees of the federal government. Placing material protected by copyright on the Internet may imply intent by the copyright owner to make the material more widely available, but this does not mean they have granted permission to further duplicate and/or distribute their material.

On many web sites, the web publisher has indicated the allowed uses; check for links identified as copyright information, use information, copyright policy, etc. for an explanation of such permitted uses.

Is it Okay to Transfer a VHS Tape to a DVD?

No, it is not. Copyright Law does not allow the transfer of formats (e.g. VHS to DVD) without permission of the copyright holder, EXCEPT for the limited provisions of [Section 108 of the copyright law](#).

Individuals are prevented by copyright from making DVD copies of copyrighted tapes that they own. Use of such copies in the classroom is most definitely illegal.

Digitization and streaming of tape copies without license or permission is not permitted either.

"Reproducing a VHS to DVD without the prior permission of the rights-holder is an infringement of copyright. This kind of reproduction is not exempt because it is not "fair use" as defined in Section 107 of the Copyright Code and it does not qualify as a lawful reproduction under [Section 108](#) of the Copyright Code."