





# Concise Guide to Copyright

Article I, Section 8, U. S. Constitution / Title 17 United States Code

<p><b>What can be copyrighted?</b></p>  <ul style="list-style-type: none"> <li>• Advertising layouts</li> <li>• Architectural works</li> <li>• Choreographic works</li> <li>• Maps</li> <li>• Motion pictures</li> <li>• Musical scores &amp; lyrics</li> <li>• Paintings</li> <li>• Pantomimes</li> <li>• Photographs</li> <li>• Poetry</li> <li>• Scripts</li> <li>• Sculptures</li> <li>• Sound recordings</li> <li>• Videotapes</li> </ul> <p><b>What cannot be copyrighted?</b></p> <ul style="list-style-type: none"> <li>• Facts</li> <li>• Historical information</li> <li>• Ideas</li> <li>• Processes [can be patented]</li> <li>• Inventions [can be patented]</li> <li>• Trademarks [fall under trademark law]</li> <li>• Works not fixed in tangible form</li> </ul>	<p><b>What are the copyright holder's rights?</b> (Title 17, Section 106, U.S. Copyright Act 1976)</p> <ul style="list-style-type: none"> <li>• To reproduce the work</li> <li>• To perform it publicly</li> <li>• To prepare derivative works</li> <li>• To publicly display the work</li> <li>• To distribute it</li> <li>• To sell / license the work</li> </ul> <p><b>What four factors should be considered for Fair Use?</b> (Title 17, Section 107 U.S. Copyright Act 1976)</p> <ul style="list-style-type: none"> <li>• Nature of the work [e.g., fact v. fiction; published v. unpublished]</li> <li>• Amount and substantiality [percentage of the original that is copied]</li> <li>• Effect of use [primarily the effect on the market value]</li> <li>• Purpose and character of the work [e.g., commercial v. nonprofit educational]</li> </ul> 	<p><b>What are the purposes for which the Fair Use Guidelines may be applied?</b></p>  <ul style="list-style-type: none"> <li>• Criticism</li> <li>• Comment</li> <li>• News reporting</li> <li>• Teaching</li> <li>• Scholarship</li> <li>• Research</li> </ul> <p><b>Please Note</b></p> <ul style="list-style-type: none"> <li>• Educators cannot legally publish a student's work without written permission from that student or the student's parents if the student is under 18.</li> <li>• The Concise Guide to Copyright applies to use of copyrighted materials in the classroom WITHOUT the copyright holder's permission. Rules for distance learning classes do vary.</li> <li>• Any use of copyrighted material should include the copyright notice for the involved material.</li> </ul>	<p><b>What restrictions relate to multi-media projects when © holder's permission has not been obtained?</b></p> <ul style="list-style-type: none"> <li>• Allow students to retain student-created projects in personal portfolios indefinitely</li> <li>• Use educator-created projects for no more than 2 years</li> <li>• Make only 2 copies of educator projects</li> <li>• Use up to 10% or 3 minutes maximum of motion media</li> <li>• Use up to 10% or 30 seconds maximum of music and lyrics</li> <li>• Use no more than 5 images from one artist or photographer</li> <li>• Use no more than 10% or 15 images total from published collective work</li> </ul>  <ul style="list-style-type: none"> <li>• Copyright protection is now automatic under U. S. law with or without the copyright notice; however, putting a copyright notice on something (1) discourages potential infringers, and (2) gives the copyright holder greater protection in a court of law.</li> </ul>
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<p><b>What restrictions are there on photocopying printed materials?</b></p> <p><b>Limit single copies to:</b></p> <ul style="list-style-type: none"> <li>• A chapter from a book</li> <li>• An article from a newspaper or a magazine</li> <li>• A short story, essay, or poem</li> <li>• A chart, graph, drawing, diagram, cartoon, or picture</li> </ul> <p><b>Limit multiple copies to:</b></p> <ul style="list-style-type: none"> <li>• A Complete poem of less than 250 words</li> <li>• Excerpt from longer poem not to exceed 250 words</li> <li>• Complete piece of prose less than 2500 words</li> <li>• Excerpt from prose not to exceed 1000 words or 10% whichever is less</li> </ul> <p><b>Do not:</b></p> <ul style="list-style-type: none"> <li>• Copy repeatedly with respect to the same item by the same teacher from term to term</li> <li>• Use more than 9 instances of multiple copies for one course during one class term</li> <li>• Copy more than 1 piece or 2 excerpts per author</li> <li>• Copy more than 3 pieces from a collective work or periodical volume</li> <li>• Copy more than 1 excerpt from sheet music (which must not comprise a performable unit)</li> <li>• Copy something in order to avoid purchase</li> <li>• Create an anthology, compilation, or collective work from copied materials</li> <li>• Copy consumable works such as workbooks, coloring books or standardized tests</li> </ul>	<p><b>What other rules apply to making photocopies?</b></p> <ul style="list-style-type: none"> <li>• <b>Brevity</b>—fit within the allowable limits of length as noted previously</li> <li>• <b>Spontaneity</b>—be at the “instance and inspiration of an individual teacher”</li> </ul> <p><b>And photocopying:</b></p> <ul style="list-style-type: none"> <li>• Must not be directed by someone in authority [above the individual teacher]</li> <li>• Must not be used to charge students beyond the actual cost of photocopying</li> </ul> <p><b>References:</b></p> <ul style="list-style-type: none"> <li>• BitLaw, <a href="http://www.bitlaw.com">http://www.bitlaw.com</a></li> <li>• Copyright Law of the United States, <a href="http://lcweb.loc.gov/copyright/title17/">http://lcweb.loc.gov/copyright/title17/</a></li> <li>• Digital Millennium Copyright Act of 1998, <a href="http://lcweb.loc.gov/copyright/legislation/dmca.pdf">http://lcweb.loc.gov/copyright/legislation/dmca.pdf</a></li> <li>• Library of Congress, <a href="http://lcweb.loc.gov/copyright/circs/circ1.html">http://lcweb.loc.gov/copyright/circs/circ1.html</a></li> <li>• Music Library Association, <a href="http://www.musiclibraryassoc.org/Copyright/guidemla.htm">http://www.musiclibraryassoc.org/Copyright/guidemla.htm</a></li> <li>• Nolo’s Legal Encyclopedia, <a href="http://www.nolo.com/keyword/copyrights_home.html">http://www.nolo.com/keyword/copyrights_home.html</a></li> <li>• Reproduction of Copyrighted Works by Educators, <a href="http://lcweb.loc.gov/copyright/circs/circ21.pdf">http://lcweb.loc.gov/copyright/circs/circ21.pdf</a></li> <li>• Software &amp; Information Industry Association, <a href="http://www.siiia.net">http://www.siiia.net</a></li> </ul>	<p><b>What restrictions are there for using videotapes in the classroom? (Title 17, Section 110, U. S. Copyright Law)</b></p> <ul style="list-style-type: none"> <li>• Must be shown by educator or educator’s students</li> <li>• Educator &amp; students must be face to face</li> <li>• Must be for educational NOT recreational / entertainment purposes</li> <li>• Must be at a nonprofit educational institution</li> <li>• Must be used in a classroom or other area commonly used for instructional activities</li> <li>• Must be a legal copy</li> </ul> <p><b>What are the guidelines for off-air videotape recordings?</b></p> <ul style="list-style-type: none"> <li>• Must be programs available without charge to general public</li> <li>• Must be made only at the request of a teacher, not in anticipation of a need/use</li> <li>• May only be recorded 1 time for the same teacher, regardless of the number of times broadcast</li> <li>• Must be used within the first 10 consecutive <b>school days</b></li> <li>• Must erase, destroy, or get permission to retain/purchase within 45 <b>calendar days</b></li> <li>• May be shown a second time [only] for reinforcement purposes</li> <li>• Must include the © notice</li> </ul>	<p><b>What restrictions apply to computer software? (Title 17, Section 106, U. S. Copyright Law)</b></p> <ul style="list-style-type: none"> <li>• Use only legal copies [civil/criminal fines \$100,000 to \$250,000 and 5 years’ jail time per infringement]</li> <li>• For more than single users, purchase lab packs, site/network licenses, or concurrent licenses that allow a set number of users to access the software at one time</li> <li>• Make only one copy for archival purposes</li> <li>• Keep approved purchase orders, invoices, product specific licenses, vendor/reseller reports, and cancelled checks as proof of purchase</li> </ul> <p><b>Remember to:</b></p> <ul style="list-style-type: none"> <li>• Teach and model ethical behaviors regarding the use software</li> <li>• Appoint someone to inventory / manage software</li> <li>• Make periodic software audits</li> <li>• Have a written set of policies and procedures regarding software purchases and use</li> </ul> <p style="text-align: center;"><b>Center for Educational &amp; Training Technology</b>  Post Office Box 309  Mississippi State, MS 39762  Phone: 662/325-5009  MSU is an equal opportunity institution.</p>
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