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Know Your Copy Rights – Copy Rights and Teaching

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Distance education (continued)

The TEACH Act allows you to show the full performance of a nondramatic literary or musical work, and dictates your ability to display the following types of materials:

Unrestricted

- a sound recording of a poem
- a sound recording of a piece of literature
- a recorded symphony
- still images, photographs (these are considered "displays")
- still images from subscription databases if allowed by license
- Text, if it is something that would normally be "displayed" in a face to face class; this does not apply, however, if it is something only to be read by students

Partially Restricted

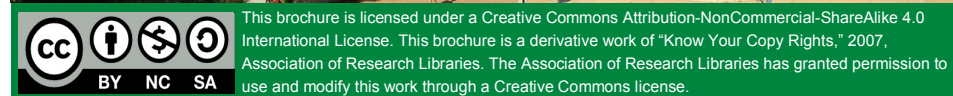
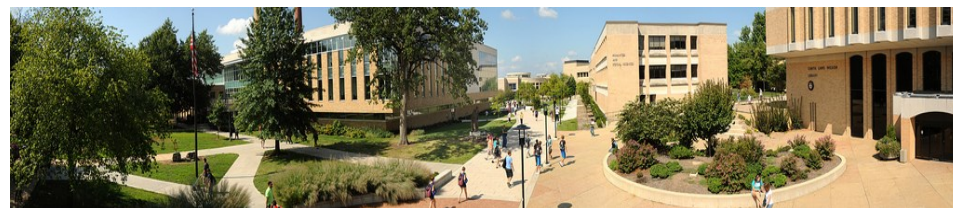
You may only display "reasonable and limited portions" of dramatic works. (Teachers in face to face classrooms may display dramatic works in their entirety). Use only the portions that are necessary to make a point. Examples include:

- dramatic works
- audio/visual works
- musicals
- operas
- commercial films
- music videos

Fully Restricted

You may not transmit or display instructional materials, without permission or licensing, which students are commonly expected to purchase, such as:

- textbooks
- coursepacks
- workbooks
- digital educational work (made for the purpose of performance or display for use in mediated instruction)
- Works "produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks" should not be copied, but purchased and used as intended by the publisher.



libguides.mst.edu/copyright

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Copy Rights and Teaching

In your teaching, you confront questions about how to legally share articles, video, music, images, and other protected intellectual property with your students. Sorting out what you can and can not do is confusing. Lack of clear-cut answers may translate into delays, doubts, fear of liability, and decisions to avoid using certain sources altogether.

In reality, however, it is often not necessary to get permission or to pay a fee to use a protected source in your class. User rights may have been licensed by the library or reserved under law. This brochure offers some tips on how to use sources lawfully in your teaching, without having to request permission or incur additional cost.

Questions?

Give us a call or send an email.

573-341-4221 or copyright@mst.edu

*Using sources
legally in your
teaching —
What You Can Do*

*Tips for faculty
and teaching
assistants*



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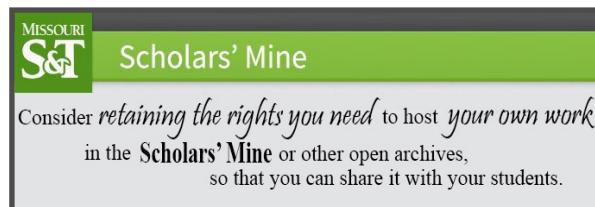
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Link to Course Materials Whenever Possible

You can often eliminate the need to request permission or pay a fee by simply giving your students a link to the work, instead of making copies of it. For example:

- The library may already have paid for a subscription license that entitles you and your students to online access. Check the library's web site, or contact your library subject liaison, to see if the work you wish to use is available without charge.
- Even if the library hasn't purchased access, the work may be available for free on a legitimate web site, such as the Scholars' Mine (our institutional repository) or another online open archive, the author's homepage, or an open access journal. Many sites will allow a student to print a copy for personal use.
- If the library has not licensed access and you can't link to the work for free, contact the library's electronic reserves department about arranging access for your students.



If you must copy...

Sometimes online access is not available in seated classroom settings, or links to course materials won't be compatible with certain software or distance learning needs. Here are some common situations in which you are free to make copies for your students, or use works in the classroom, freely and legally.

Uses permitted by license

Use of electronic resources is commonly governed not only by copyright, but also by licenses between owners and users. Your use rights differ from license to license. Commonly, a publisher's or aggregator's license with a library will allow faculty and their students to:

- Print a reasonable amount of work.
- Share it with other authorized users covered by license (typically, all faculty and enrolled students are authorized).

With the potential for creators to offer their works directly to users on the web, use of Creative Commons licenses is growing (www.creativecommons.org). With Creative Commons, creators specify the rights conveyed to users — such as to copy, distribute, display, and perform the work, provided attribution is given.

Fair uses

When the circumstances might reasonably be judged as fair, you may use copyrighted works in your teaching without obtaining permission. US law lists four fair use factors (described in the shaded area at right) that will help you evaluate whether your use is permitted. The following uses are generally regarded as fair:

- Copying reasonable portions of longer work for your class;
- Copying a timely article (or one you've recently discovered that is relevant for your class) when it is unreasonable to expect a sufficiently rapid reply to a request for permission;
- Copying a graphic or image from a work to display in your lectures.

Public domain

Works in the public domain are not protected by copyright, so you can use them freely. Here are examples of public domain works:

- Under US law, copyright expires 70 years after the death of the author. At that point, works automatically enter the public domain. As a practical matter, all works published in the US before 1923 are now in the public domain.
- Works by the US Government or created by its employers as part of their job are in the public domain. This does not apply to most works by federal grant recipients or contractors, or works of most other governments, including state and local.

Fair Use — Weighing Your Rights

To ensure a balance of the rights of copyright owners and the public interest, the law allows you to use copyrighted works without permission — regardless of the medium — when evaluation of the circumstances suggests the use is fair.

This “fair use” provision of copyright law doesn't provide hard and fast rules to tell you whether a use qualifies as fair. Instead, the unique facts regarding a use leads you to a reasoned conclusion.

Your evaluation should weigh four factors:

- **Purpose and character:** If your use is for teaching at a nonprofit educational institution, this is a factor favoring fair use. The scale tips further in favor of fair use if the access is restricted to your students.
- **Nature of copyrighted work:** Is the work fact-based, published, or out-of-print? These factors weigh in favor of fair use.
- **Amount used:** Using a small portion of a whole work would weigh toward fairness. But sometimes it may be fair to use an entire work (such as an image) if it is needed for your instructional purpose.
- **Market effect:** A use is more likely to be fair if it does not harm a potential market for or value of the copyrighted work. But if it does, this could weigh more heavily against fair use than the other factors.

Consider each of these factors, but all of them do not have to be favorable to make your use fair. When the factors in the aggregate weigh toward fairness, your use is better justified. When the factors tip the scales in the other direction, your need to obtain permission from the copyright holder increases.

Don't worry that the answer isn't crystal clear. Just decide whether the factors weigh enough toward fairness so that you're comfortable not seeking permission. Some suggest reliance on the “golden rule” — if you were the copy-



Displaying or Performing Works in Your Classes

Copyright law makes special provision for displaying images, playing motion pictures or sound recordings, or performing works in classes.

Face-to-face teaching

You may display or perform a work in your class without obtaining permission when your use is:

- For instructional purposes;
- In face-to-face teaching;
- And at a nonprofit educational institution.

If you don't meet all three of these criteria, use the criteria at the left to determine whether what you have in mind is fair use.

Distance education

You have more privileges in face-to-face teaching situations for the use of copyrighted materials than in online instruction. The TEACH Act attempts to bring the two environments closer together, but the playing fields are still not level.

The TEACH Act is a copyright exemption that covers teaching conducted through digital transmission; it addresses performance and display of copyrighted materials used in teaching. Even if your class has on ground, face to face sessions, anything you transmit through course delivery systems, such as Blackboard, would fall under the TEACH Act, unless you choose to use Fair Use as an alternative exemption.

The TEACH Act does not cover the use of textual materials such as readings.