Know Your CopyRights...And Responsibilities

*Using the Knowledge Navigation Center and the Digital Media Commons*

From the Copyright Office at the University of Michigan Library

As part of the University of Michigan Library’s services to the UM community, the Knowledge Navigation Center and the Digital Media Commons provide a wide range of media and technology tools for educational purposes. Staff in the KNC and the DMC is happy to help you to learn about and use software, equipment, and generally assist you with questions about how to use the technology for your educational needs. Many of the available tools facilitate copying, for example to and from different formats, scanning, photocopying and so forth. As a user of these tools, you need to be aware of your rights and responsibilities under copyright law. *Your use of these facilities conditioned on your good faith respect for copyright.*

*The Library staff in the KNC and the DMC cannot assist you with making legal decisions. If you are concerned about making a copy or want to discuss a particular use, contact the UM Copyright Office at copyright@umich.edu to help you with your evaluation, and take a look at our website for more information at www.lib.umich.edu/copyright.*

What’s the big deal? US copyright law allows libraries to provide ‘reproducing equipment’ for unsupervised use by patrons provided the library displays on the equipment a notice that the making of a copy may be subject to the copyright law. (17 USC 108(f)) The law says that if the library provides this notice, then employees of the library will not be held personally liable for any copyright infringement that might take place with the provided equipment. This provision was written in the 1970’s when the main concern was photocopying – photocopying equipment is fairly simple to use and thus unsupervised use really presumed no staff assistance. Today, use of sophisticated technology is a fundamental educational tool – our students are encouraged and expected to utilize these facilities for classes and as part of the robust informal learning environment that distinguishes the opportunities available to UM students, faculty and staff. The technology we provide is increasingly a vital part of education, and we recognize that its complexity requires that we provide assistance to help our community use it effectively.

*This flyer provides very basic information about copyright and two key exceptions that commonly arise in the university environment. The law requires that we notify you that your misuse of this equipment may result in copyright liability – it does not require that we inform you of the possibly relevant limits on copyright such as fair use. While this flyer does not provide legal advice, it is meant to give you information about your rights and responsibilities – and to explain why KNC and DMC library staff do not advise on the legality of your use.*

What is copyright?

Copyright is a form of legal protection that allows authors, photographers, composers, and other creators to control some reproduction and distribution of their work. There are several different rights that make up copyright. In general, copyright holders have the exclusive right to do and to authorize others to:

- Reproduce the work in whole or in part
- Prepare derivative works, such as translations, dramatizations, and musical arrangements
- Distribute copies of the work by sale, gift, rental, or loan
- Publicly perform the work
- Publicly display the work (17 USC 106)

These exclusive rights are subject to certain limitations -- some of which are particularly important for education, libraries, and scholarship. These limitations allow certain uses without the permission of the copyright holder. *In the absence of any applicable exception or limitation, permission should be obtained.*

www.lib.umich.edu/copyright

copyright@umich.edu
Copyright protects literature, music, painting, photography, dance, and other forms of creative expression. In order to be protected by copyright, a work must be:

- Original: A work must be created independently and not copied.
- Creative: There must be some minimal degree of creativity involved in making the work.
- A work of authorship: This includes literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, audiovisual, and architectural works.
- Fixed: The work must be "fixed in a tangible medium of expression" — written on a piece of paper, saved on a computer hard drive, or recorded on an audio or video tape.

What is Fair Use?

Fair use is a limitation on the otherwise exclusive rights of a copyright holder that allows limited use of copyrighted material without permission from the copyright holder for purposes such as criticism, parody, news reporting, research and scholarship, and teaching. There are four factors to consider when determining whether your use is a fair one. You must consider all the factors below, even though all the factors do not have to be in favor of a use to make it a fair. The four fair use factors are:

1. The purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work, such as whether the work is fiction or non-fiction, published or unpublished;
3. The amount of the work used in relation to the copyrighted work as a whole, such as using a poem in its entirety, or using one chapter from a long book;
4. The effect of the use upon the potential market for the copyrighted work.

For assistance in analyzing these factors for individual cases, take look at the Fair Use Evaluator provided by the ALA Office for Information Technology Policy at http://librarycopyright.net/fairuse/. Keep in mind that the fact that a particular use is for non-profit educational purposes does not alone automatically make it permissible to copy or distribute other people's work. While many educational uses may be fair, evaluate your use each time reproduce copyrighted material — to show in your class, to hand out copies, to include in your writing, or to post on CTools. In general, it is advisable for faculty should maintain their selected material in the CTools environment for students enrolled in a particular class for the duration of the class.

How do I know if I am allowed to use a work in my classroom? The Technology, Education, and Copyright Harmonization Act – the TEACH Act

The rules governing use of materials in a face-to-face classroom are broader than fair use, and those rules give you more leeway as far as what you are allowed to copy, display, and distribute in your classes. You may display or perform a work in your class without obtaining permission or doing a fair use evaluation when your use meets all three of these criteria. The use is:

- for instructional purposes
- in face-to-face teaching
- at a nonprofit educational institution.

Specifically permitted used include:

- showing all or part of a movie or television show
- including pictures, images, graphs, and charts in your lecture slides
- playing music

Remember that fair use is a concept in copyright law. Even if fair use applies, you still have an obligation to provide proper citation for works that you use. Copyright infringement and plagiarism are two different
How do I know if I am allowed to use a work in a distance learning class?

The TEACH Act allows teachers and students at accredited educational institutions to use works for distance learning without permission under certain circumstances. If you:

- are an educator at an accredited educational institution,
- will supervise your students' use of copyrighted materials,
- are using the material as an integral part of a class session,
- are using the material as an integral part of your curriculum, and
- are using the material that is directly related to and of material assistance to your teaching content

and plan to use copyrighted works in the following ways:

- performances of nondramatic literary works (i.e., a recording of a novel being read aloud);
- performances of nondramatic musical works (i.e., a recording of a symphony);
- performances of reasonable amounts of any work (i.e., an excerpt from a movie); or
- display of any work in an amount comparable to what would be used in a live classroom.

then your use aligns with the TEACH Act. For more help, see North Carolina State University's TEACH Act Toolkit, which gives more in-depth information about copyright and distance education. http://www.provost.ncsu.edu/copyright/toolkit/

What does it mean if a work is Creative Commons licensed?

Creative Commons is a non-profit organization that created a set of simple, easy-to-understand copyright licenses. These licenses allow creators to mark a work with permission to make a variety of uses, with the aim of expanding the range of things available for others to quote, adapt, and build upon. Creative Commons licenses do two things: They allow creators to share their work easily, and they allow everyone to find work that is free to use without permission. As long as you obey the terms of the license attached to the work, you can use Creative Commons licensed material without fear of accidentally infringing someone’s copyright. For more information, visit the Creative Commons website at http://creativecommons.org/. We encourage the use of Creative Commons licenses because they effectively help communicate information about copyright holders intentions and thus help everyone know with clarity what may be used and how – and what requires permission. Further, they allow you to know from whom to obtain permission. They are efficient and effective both for creators and users who want to respect copyright.

What can I do if the use I want to make is not a fair use?

If you have determined that the use you want to make is not a fair use, you must ask for permission from the copyright holder. Faculty may want to consult Peggy Hoon's Using Copyrighted Works in Your Teaching FAQ: Questions Faculty and Teaching Assistants Need to Ask Themselves Frequently at http://www.knowyourcopyrights.org/resourcesfac/faq/which was released under a Creative Commons Attribution-Non-Commercial 2.5 license.

For information on how to obtain permission and some sample permission letters, see our website www.lib.umich.edu/copyright/requesting-permission. For information on how to use copyrighted material see: http://www.lib.umich.edu/copyright/using-copyrighted-material.

Contact the Copyright Office at the University of Michigan Library for informal consultations about your copyright questions. We are happy to talk to you individually and to provide talks to your group or department about copyright issues – give us a call or an email.