

Copyright Basics in Brief

What is copyright?

Copyright law gives the copyright holder (often the author or publisher) the right to control certain uses of works. It also gives users the right to make certain uses of those works without permission. For more information about these rights, visit: umlib.us/copyright-basics-guide.

How do works get copyright protection?

In the United States today, copyright protection automatically covers all new copyrightable works. A work is copyrightable if it has at least a modicum of creativity, is the independent creation of its author, and is fixed in a tangible medium of expression. So, for example, as soon as you take a copyrightable photograph or write a copyrightable poem down on paper, the work is protected by copyright. Note that the law has varied over time; different rules may apply to older works.

If I want to use someone else's work, what should I think about?

First, consider whether you've agreed to use a work only in certain ways. If you've agreed to certain terms of use for a particular work, those terms first control what you can and can't do. If you have not agreed to separate terms of use, here are a few of the most important questions to consider: (1) Is the work protected by copyright? (2) Has the work's rights holder already granted a license that would permit me to use it? (3) Does a user's right permit me to use it? (4) Can I get permission to use it?

Consider these questions and stop if one provides an answer.

Question 1: If a work isn't copyrightable or if it is in the public domain, you may use it. For more information about what is copyrightable, visit: umlib.us/copyrightability. For more information about the public domain, visit: umlib.us/copyright-duration-formalities.

Question 2: If the work is copyrightable and is not in the public domain, check to see if a license that would permit your use has been applied to the work. Creative Commons licenses are a particularly popular licensing mechanism.

Question 3: Next consider user's rights. Fair use is the broadest of these rights and is a good place to start. Whether your use is fair will depend on the four fair use factors. There are no general limits on the amount of a work that you can use under fair use -- in some cases, it is fair use to use an entire work; in other cases, it is not fair use to use even a small portion of the work. Academic and educational uses are favored under the fair use doctrine, but not all such uses are fair. If you do not believe your use to be fair, consider whether it falls under any of the specific user's rights, such as using works during face-to-face teaching. For more information about user's rights, visit: umlib.us/copyright-user-rights.

Question 4: If the previous three questions haven't provided a path forward, you will need to get permission or change your plans. For more information about permission, visit: umlib.us/copyright-permission.

How can I find out more about this topic?

To learn more about copyright, visit: umlib.us/copyright-um. We also provide workshops and in-person and online appointments. (To set an appointment, please visit our website and sign up via Google Calendar.) We're always happy to talk with you; please feel free to reach out at any time: copyright@umich.edu.