

# Copyright for Instructors

More at [www.cgcc.edu/library/copyright-and-fair-use](http://www.cgcc.edu/library/copyright-and-fair-use)

## WHAT IS COPYRIGHT?

### *Copyright is a Limited Monopoly*

- Monopoly created by law
- Exclusive rights for a limited time
- Incentive to keep creating
- Need permission of author to use materials
- Need to pay to use materials



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## EXCEPTIONS TO COPYRIGHT

### *Fair Use*

- Exceptions written into the law to use materials without permission
- Examples: research, teaching, criticism, reporting, and parody
- Fair Use is *not a steadfast rule*, but that makes it *more flexible*

### *TEACH Act*

- Acronym stands for: Technology, Education and Copyright Harmonization
- Exceptions to copyright *specifically for distance education*
- Materials must be behind a password-protected wall, access limited to only currently enrolled students

### *Public Domain*

- No copyright owned by anyone
- Copyright has expired or was never copyrighted at all
- Can use any public domain material with no restrictions



## ALTERNATIVES TO COPYRIGHT

### *Creative Commons License*

- Authors chose to waive certain rights
- Generally speaking, Open Educational Resources (OERs) use CC licenses
- <https://creativecommons.org/>



# FRAMEWORK FOR ANALYSIS

Ask in order– you may not need to go through entire list

## 1. *Is the work protected by copyright?*

- Is the work I want to use protected by copyright, or is it in the public domain?
- If I wrote it, do I still own copyright, or did I sign over rights for my intended use to the publisher?

## 2. *Is there a specific exception in copyright law that covers my use?*

- Is my intended use covered by a specific exception to the exclusive rights in the copyright law, such as for libraries or for classroom performances and displays?

## 3. *Is there a license that covers my use?*

- Is there a Creative Commons license attached to the work? If so, can I comply with the terms of the license, or can I find another work that is CC-licensed?
- If affiliated with an educational institution, is there a license that governs how the copyrighted materials I'm accessing through my library can be used?

## 4. *Is my use covered by fair use?*

- Four factors for fair use are:
  - The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
  - The nature of the copyrighted work
  - The amount and substantiality of the portion used in relation to the copyrighted work as a whole
  - The effect of the use upon the potential market for or value of the copyrighted work
- Questions for transformative fair use under factor one are:
  - Does the copyrighted materials help me make my new point?
  - Will it help my readers or viewers get my point?
  - Have I used no more than is needed to make my point?

## 5. *Do I need permission from the copyrighted owner for my use?*

- If so, first locate the copyright owner and fully explain your intended use in your permission request
- If no response or answer is no, reconsider your use of this work to see if you can make a fair use, or consider using another work

Taken from handout “A Framework for Analyzing any Copyright Problem” by Kevin Smith and Lisa Macklin. Creative Commons Attribution Share Alike License 4.0 

