

## 10 ©COPYRIGHT TIPS FOR STANFORD FACULTY

1. Copyright is everywhere. Copyright protects the expression of an original idea. Writings – from the great American novel to lecture notes, music, photographs, websites, artwork, movies, sound recordings, architectural works, compilations, databases and software are all subject to copyright protection. Copyright attaches automatically; the copyright symbol is not necessary for copyright to apply (although registration is a pre-requisite to enforce copyright under federal US law). Assume that copyright applies in the absence of evidence to the contrary (e.g., a work published in the United States prior to 1923 is out of copyright status and in the public domain). Do not assume that because something is available “freely” on the web there is an entitlement to make multiple copies.
2. Copyrighted materials may be used in discrete and limited circumstances to advance academic and research goals. There is no over-arching copyright exception that allows unfettered reproduction and distribution of copyrighted materials in the name of academia.
3. The law allows for performance and display of copyrighted material in face-to-face instruction. Copyright law liberally allows faculty to perform and display copyrighted content, such as movies, slides, and websites, in live face-to-face classroom settings without seeking permission from the author. But, this exception is not applicable to copies made for students that they take from the classroom (but fair use may be an option).
4. Fair use is a broad exception, but it has limits. The broadest of the copyright exceptions, the catch-all when a more specific exception does not apply, is the fair use doctrine. This doctrine assumes a copyright infringement, but permits it for purposes including “criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research. There are four factors to determine whether a particular use is a fair use, but the Ninth Circuit (which includes Stanford in its jurisdiction) gives most weight to whether the use harms the value of the work or the marketplace for the work. In practice, this factor requires faculty to determine the value of the work to the class: Would you require students to buy a 100 page book for the one-page graph on page 72? Is there a market available to pay a reasonable royalty to the copyright owner for just the graph? If the answer to both questions is no, then use of this single graph is fair (although See Tip #5 and discussion of cumulative effect).
5. Multiple Copies for Classroom Use. There are “Classroom Guidelines” that set out a fair use “safe harbor” for classroom copying, but note that *these guidelines are not law and set the floor rather than the ceiling of what is permissible under fair use.*  
<http://www.unc.edu/~uncInlg/classroom-guidelines.htm>

The Guidelines provide that multiple copies are permitted provided that a notice is included and the copying meets the tests of EACH of the following: brevity, spontaneity and cumulative effect.

- *Notice:* The copies should contain a notice that work is under copyright;
- *Brevity:*
  - i. **Poems:** less than 250 words, or excerpts of poems up to 250 words;
  - ii. **Writings:** a complete article, story or essay less than 2500 words, or an excerpt of any writing up to 10% or 1000 words, whichever is less;

- iii. **Illustrations:** one chart, graph, diagram, drawing, cartoon or picture per book or periodical issue
  - *Spontaneity:* The copying is at the inspiration of the teacher and the decision to use the work comes so close in time to the actual use that it would not be practical to obtain permission.
  - *Cumulative Effect:*
    - i. No more than 9 instances of multiple copying for a class term; and
    - ii. No more than 1 poem, article story essay or 2 excerpts may be copied from the *same author*
    - iii. No more than 3 selections from the same volume or collective periodical for one class term.
6. Printed Coursepacks. The Supreme Court ruled that the unauthorized preparation and sale of pre-selected course reading materials is a violation of copyright law. Commercial copy centers solicit permission for use of materials and build the royalty fees into the costs of the coursepacks. Faculty members compiling their own coursepack need to seek permission for use of coursepack materials.
  7. Electronic Coursepacks, such as posting material on CourseWork. Generally, posting **\*a copy\*** of material onto a website such as CourseWork for students to access requires permission, just as though the work were appearing in a printed coursepack. But, see Tip #8 before uploading anything.
  8. Link It! Link It! Link It! Before posting a copy of a work, determine if there is a way to **link** to the content from the Internet or through Stanford University Libraries, which pays for hundreds of subscriptions to on-line journals. *Providing a link to lawfully-posted copyrighted content available on the Internet or through SUL is encouraged; permission from the copyright owner is not necessary because there is no copy being made by the faculty; the faculty is simply pointing students to the location of already posted and accessible content.* (Note that the link must have legitimate access to the content; e.g., link to <http://www.latimes.com/> for students to view an LA Times article, not [www.ignorecopyright.com](http://www.ignorecopyright.com)).
  9. The “Captured” Lecture. Increasingly, Stanford is audio or video taping lectures and making the lectures and lecture slides available through CourseWork. Often, these materials will have embedded third-party copyrighted images, which when shown and discussed in class, fell under the face-to-face teaching exception. Providing password protected access to these lectures for the duration of the students’ enrollment in the course advances the academic mission of the University, and does not harm the market for the embedded images. The CourseWork license requires students to agree to use the content only for personal use and further distribution is prohibited. Please contact the Office of the General Counsel for release of captured lectures or lecture slides beyond those described here or in connection with an existing University program such as iTunes or SCPD.
  10. Help! Copyright law is complicated. Making good faith efforts to comply with copyright law is expected by Stanford faculty. There are resources to help with copyright decisions. Please see the Copyright Reminder, [http://fairuse.stanford.edu/stanford\\_notices/Provost\\_Copyright\\_Reminder05.pdf](http://fairuse.stanford.edu/stanford_notices/Provost_Copyright_Reminder05.pdf), and the sources cited there for additional information. Lauren Schoenthaler in the Office of the General Counsel is available to discuss copyright concerns at [lks@stanford.edu](mailto:lks@stanford.edu).