

# Are you copyright-wise?

*Read about Ivy Tech's  
copyright policy*

*Get the basics of copyright*

*Learn what the  
four factors of fair use are*



(7/07)

## Ivy Tech Community College of Indiana

### Copyright Guide for Faculty & Staff

Including

#### The College Copyright Policy

#### Copyright Basics

#### Copyright Tips



## Ivy Tech Copyright Policy<sup>1</sup>

Recognizing the need for the creation of and access to protected works in a variety of formats for educational and research purposes, Ivy Tech Community College of Indiana is committed to compliance with all applicable laws governing intellectual property and copyright protection. The College extends this commitment to include the utilization of rights granted under the "Fair Use" provision established in Section 107 of the United States Code, Title 17, to users of copyrighted works.

### Compliance with Copyright Law

All College employees and students have the individual responsibility to understand and abide by copyright law in the development of materials, in teaching, and in all other College activities. Each employee or student must insure that his or her activities comply with fair use and in no way infringe on the copyright or other proprietary rights of others, and that the materials used and developed at Ivy Tech Community College contain nothing unlawful, unethical, or libelous, and do not constitute any violation of any right of privacy.

Each individual will accurately assess and classify all materials used in or under development for College activities into one of the following categories:

1. The employee holds legal copyright to all materials in use and/or under development or such materials are not copyrightable.
2. The employee has obtained all required permissions, licenses, or releases from holders of such rights or has advised that permissions must be obtained; or
3. The employee has determined after careful study that the intended use is covered by an exemption to copyright laws.

Faculty must include the copyright notice from the College Course Outline of Record on all syllabi..

## Copyright Basics

### *What is protected by copyright law?*

The law applies to any original work of authorship that is "fixed in a tangible medium of expression" such as a book, journal, painting, film or video, web site, and more.

### *How long does protection last?*

Works created on or after 1-1-78 are protected by copyright law for the life of the author plus 70 years. Works of corporate authors are protected for 95 years from publication or 120 years from creation.

### *How do I get copyright protection?*

Neither the copyright symbol nor registration are required for this protection. **It is automatic.**

### *What are the rights of the Copyright Holder?*

They have the exclusive right to:

- (1) reproduction of the work
- (2) distribution of copies of the work
- (3) making of "derivative" works
- (4) public performance
- (5) public display

### *How can I use copyrighted works without infringing upon this protection?*

- (1) Use the Fair Use exemption
- (2) Use the education exemptions
- (3) Get permission (may involve fees)

### *What might be an infringement?*

Photocopying, uploading to web sites, copying software, or giving a public performance might be an infringement if it does not fit the education or fair use exemptions .

### *What is public domain?*

Works that have never been copyrighted or works for which copyright has expired are in the public domain, free for anyone to use. All works of the U.S. government are in the public domain.

<sup>1</sup> See APPM 7.13: Copyright

## Fair Use Exemption

Copyrighted works can be used, copied, or displayed without permission or paying of fees under certain circumstances. To determine if you have a "fair use", you must analyze and weigh 4 factors to balance the rights of the copyright holder and user.

### *First Factor*

Purpose of your use

#### In favor of fair use

Teaching/Educational  
Research/Scholarship  
For criticism  
Non-profit  
News reporting  
Transformative use

#### Against fair use

Entertainment  
Commercial activity  
For profit  
No credit to author

### *Second Factor*

Nature of the work to be used

#### In favor of fair use

Factual  
Nonfiction  
Published  
Important to educational objectives

#### Against fair use

Highly creative  
Fiction  
Unpublished

### *Third Factor*

Amount of work to be used

#### In favor of fair use

Small amount

#### Against fair use

Large amount  
Whole work  
"Heart of the work"

### *Fourth Factor*

Effect of use on the market

#### In favor of fair use

No substantial effect  
Licensing or permissions  
Available & used  
No licensing available  
Few copies made

#### Against fair use

Substantial effect  
Available licensing  
not used  
Work made available  
to the world  
Many copies made

A Checklist for Fair Use can be found at:  
<http://www.copyright.iupui.edu/checklist.htm>

## Education Exemption

The law allows instructors in non-profit education institutions to display or perform copyrighted works of all kinds in their classroom or similar place devoted to instruction as long as the material is used as part of the systematic instructional activity and is directly related to course content.

However, any copying activity done for use in teaching should be tested for Fair Use using the four factors.

For example,

- You can make copies of a course-relevant journal article for your students one or two times but repeated copying of the same article semester after semester may go against fair use (market value). Instead, you can safely link to our library databases semester after semester. See your local librarian to find relevant material.
- You want to copy for your students sections of a workbook you own. Because workbooks are created to sell to students, market harm might tip against fair use. Seek permission from the copyright holder.

Materials that can be reproduced without permission or the fair use test include:

- Generic information such as fact & numbers
- All U.S. Government works
- Works on which the copyright has expired (If a work was published between 1906 & 1977 and is at least 75 years old have passed into the public domain. (Works after 1978 have a copyright life of 70 years plus the life of the author.)
- Works published before 1989 that lack the then required proper copyright notice
- Any laws that are not annotated.
- Royalty-free works-- contact your regional librarian or distance education coordinator for requirements that may be linked to use of royalty free work

## Distance Education

In 2002 Congress passed the TEACH Act, which made significant improvements in copyright law regarding distance education. Under the new law

### Instructors can:

Perform (show) a non-dramatic literary or musical work or any other dramatic or AV work in "reasonable and limited portions."

Display a work in an amount comparable to that which is typically displayed in the course of a live classroom session.

Convert analog works into digital in the amount authorized by the list below if no digital version is available to the College.

### Instructors cannot:

- perform or display a work marketed primarily as a part of a digitally transmitted mediated instructional activity
- perform or display a textbook, coursepack, or other material in any media which is typically purchased or acquired by students for their independent use and retention.

Instructor Responsibilities for permitted performance and display:

- Transmission must be only open to students officially enrolled in the course
- Performance or display must be an integral part of the class session
- Performance or display must be analogous to what would be done in a face-to-face class setting
- The material is directly related and of material assistance to the instruction
- The activity is under the direct supervision and control of the instructor
- A lawfully made copy is being used
- A copyright notice is provided to students
- Take technical steps to ensure no copy of the digital transmissions is retained longer than the class session

## It's on the Net

A very large amount of material today is published or posted to the Internet. The World Wide Web should be treated as a publishing medium where the usual copyright laws and fair use guidelines apply. Consider these points:

- Downloading and sharing of these electronic files without the permission of the copyright owner may be a violation of the copyright law.
- Even e-mail messages are copyrighted.
- Posting of copyrighted works in course management systems such as Blackboard are subject to copyright law and fair use analysis

### Seeking permission

If your use of copyrighted materials does not pass the fair use test, you will need to seek permission to use the work. Sometimes you can write to the author or producing company. At times the Copyright Clearance Center may be of use to you. Check with your local librarian or distance education coordinator for assistance.

### Alternatives

Seeking permission is often difficult and/or unsuccessful. Consider the following alternative methods when you are in danger of copyright violation:

- Link to our library resources and other online materials
- Use library reserves and e-reserves
- Create traditional coursepaks
- Ask students to buy a copy when appropriate.