

Digital Copyright Reference Guide

This guide will introduce you to the copyright exceptions that support your digital instruction. You can find more information at the Copyright & Digital Scholarship Center's page: www.lib.ncsu.edu/cdsc

1. Is it under copyright?

The first question you should ask about a work you want to use is whether someone else owns it. As a general matter, all works that are fixed in a medium of expression – including digital media - are subject to copyright so most works are likely to be owned by someone, even if they don't have the familiar © symbol.

There are some types of work, however, that do not qualify for copyright. Ideas, facts, works of the federal government, and works created before 1923 are all owned by no one and free for you to use.

2. Does it qualify for TEACH?

Even if a work is owned, you may still not need to ask permission based on a copyright exception designed to support online instruction. The TEACH Act permits you to use works without seeking permission in situations where your use is comparable to what you could do in the classroom.

In brief, TEACH requires that you retain the classroom character of your use by limiting access to **enrolled students** and using portions **comparable to what you would use in the classroom** and **limited portions of dramatic films** you choose to stream.

3. Can you claim fair use?

Fair use is an exception that permits use when the benefit to the public outweighs the harm done to the rightsholder. Fair use is analyzed based on four factors: 1. the *purpose and character of your use*; 2. the *nature of the work you are using*; 3. the *amount and substantiality you are using* and; 4. the *effect of your use on the market for the original*. In other words, you need to ask what you are **doing**, what you are **using**, **how much** you are using, and whether your use is **hurting the value** of the original.

Fair use is not a checklist where all four factors must be on one side nor is it a vote where the majority of factors rules. Fair use is about looking at all four factors to strike a balance that permits use for the public good that does not do too much harm to the creator of the original work.

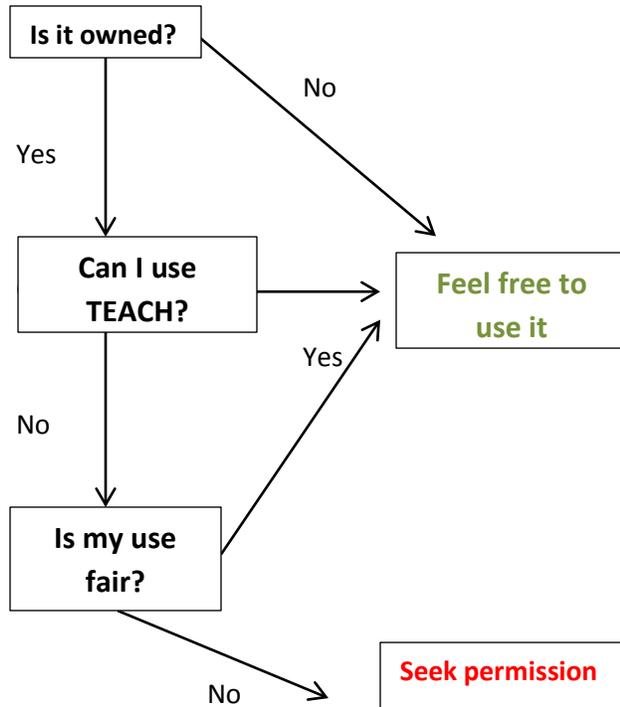
4. Do you have permission?

If none of these exceptions apply you'll need permission. The Copyright & Digital Scholarship Center can help you find images that can be used or help you negotiate permissions.

Questions? Contact the Copyright and Digital Scholarship Center: <http://www.lib.ncsu.edu/cdsc>

Digital Copyright Resources

Flow Chart



[Resources](#)

TEACH Act Toolkit
<http://www.provost.ncsu.edu/copyright/toolkit/>

Fair Use Checklist
<http://copyright.columbia.edu/copyright/fair-use/fair-use-checklist/>

Guide to Permissions
http://fairuse.stanford.edu/Copyright_and_Fair_Use_Overview/chapter1/

Examples of safe use:

- A professor shares a recording of her lecture, including images of various magazine covers, in the electronic reserves system for her students to watch.
- A student links to a news article humorously related to discussion on a bulletin board in Moodle.
- All students in a class on popular music and culture share clips from their favorite musicians in Moodle to illustrate a discussion on genres of music.
- A professor uses clips from various films to illustrate a point in her history seminar at NCSU.

Examples of risky use:

- A professor shares a recording of her lecture, including an entire database of magazine covers in the library's electronic reserves system.
- A student links to The Pirate Bay and suggests downloading a film.
- All students in a class on popular music and culture post full versions of their favorite songs on the open web as a way to introduce themselves.
- A professor uses clips from various films to illustrate a point in her lecture to a local civic organization.

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