

Pima Community College

Copyright Frequently Asked Questions

How does copyright apply to classroom handouts?

Classroom handouts fall into two categories: ones that require permission and ones that do not. If the handout is a new work for which an instructor could not reasonably be expected to obtain permission in a timely manner and the decision to use the work was spontaneous, an instructor may use that work without obtaining permission.

However, if the handout is planned in advance, repeated from semester to semester, or involves works that have existed long enough that one could reasonably be expected to obtain copyright permission in advance, an instructor must obtain copyright permission to use the work.

Instructors may not copy from works intended to be “consumable” in the course of study or teaching such as workbooks, exercises, standardized tests, answer sheets, and similar materials.

These guidelines for classroom handouts also apply to copyright-protected materials that an instructor places on reserve in the library for use by students.

What do I have to do to create a course pack for my class?

A course pack is a bundled set of materials from a variety of sources, e.g., articles, essays, book chapters. Students usually purchase the course packs from bookstore. A course pack frequently makes it unnecessary for students to buy the complete books, journals, etc.

If a course pack is prepared and sold to students, without the necessary permission of the owner of each item in the course pack, the instructor and the bookstore are all infringing on the owners’ rights.

Unless a particular item is covered by the fair use exception (for example, quotation of a short passage) all articles, chapters and other individual works in any printed course pack require copyright permission. Copyright permission for course packs is usually granted for each academic period. To re-use a course pack in subsequent academic periods (e.g. semesters), an instructor should obtain permission again. Many copyright holders provide time-sensitive permission because their own rights may be time-sensitive and could be transferred to different copyright holders at any time.

If using a third party, such as a college bookstore, the faculty member needs to ensure the third party has a contract with the College to create course packs.

How does copyright apply to the copies the students make?

Scanning (or copying) by students is subject to a fair use analysis. A single scan/copy of a portion of a copyright-protected work, such as a copy of an article from a scientific journal made for research, may be made without permission. The following constitute copyright infringement unless permission is granted beforehand to make copies:

(1) scanning/copying all the assignments from a book recommended for purchase by the instructor; (2) making multiple scans/copies of articles or book chapters for distribution to classmates; or (3) scanning/copying material from consumable workbooks.

If the unauthorized scanning/copying is made at a library or other College facility, the College can be held liable for contributory copyright infringement. Consequently, personnel must make diligent efforts to insure that students adhere to proper scanning/copying requirements.

The library must display a copyright notice at the place library users make their scans/copies.

How does copyright work with Electronic Reserves?

Electronic Reserves (ERs) are computer and web-based substitutes for portions or all of a course pack. Instead of taking various essays, articles, and book chapters to a copy center for copying and sale to students, instructors sometimes create electronic copies of the works. They then ask Instructional Designers, or the Library, to upload the copies onto the library's reserve network or its equivalent; there students may access, read, download and print the works. Absent permission of the owner of each uploaded work, or a Fair Use Evaluation favoring Fair Use, constitutes copyright infringement.

ERs can be essential for unavailable works such as old and out-of-print publications, unique and/or archival materials and the like. This use of ERs differs sharply from the use of ERs to make available to scores of students an otherwise commercially available textbook or trade publication such as a contemporary novel.

Instructors are responsible for following the guidelines when placing copyright-protected material in Electronic Reserves. These requirements apply to every College network or system as well as College web pages.

All materials in ERs must be uploaded on secure, password-protected systems. Absent permission of the owner of the work, materials in ERs should not be downloadable or printable. They must be removed from ERs at the end of the term in which the course is given.

In general, the guidelines for classroom handouts apply to ERs.

How does copyright work with movies, images downloaded from the internet, songs from a CD, and programs recorded from the radio?

In face-to-face classroom teaching, when the purpose is educational, a student and instructor may perform or display any copyright-protected material without permission from the copyright holder as long as the material was originally lawfully made and acquired, i.e., purchased by the College or its personnel. The only exception to this rule is when the work displayed is a program recorded from television (see below). For example, a history class may watch a recording of the film series "The National Parks" even though the recording is labeled "Home Use Only" as long as it is being displayed in class for educational purposes.

This does not mean that an instructor can make copies of these media items and give them to students.

That is not permissible absent the owner's agreement.

Can I record a program from television to show in my class?

In face-to-face teaching, an instructor may show a program recorded from broadcast television (as opposed to cable) as long as the following guidelines are followed: (1) show the program in the days immediately following its broadcast, i.e., within two weeks and do not show it more than twice; (2) do not use the recording in subsequent semesters; (3) as with all material, include the copyright notice, which in this case would also note the date of the original broadcast; (4) does not modify the recording in any way; (5) does not make more copies than you need for instructional purposes; and, (6) purchase or license the program or erase the copy within six (6) weeks of its broadcast.

College employees should avoid using cable (fee-based) TV recordings such as HBO or CNN programs unless they first obtain the necessary permissions, in writing.

Can I just link to Copyright-Protected material on the Internet?

In face-to-face teaching, an instructor may provide a link in his or her classroom materials to copyright-protected material that is on the internet without copyright holder permission under the following conditions: (1) the instructor has reviewed the *Terms of Use* or similar document (collectively "TOU") on the site and determined that the TOU does not restrict linking; (2) the site does not require a login user ID and password; (3) the material on the site has been legally made and acquired; and, (4) students are informed that the material may be copyright-protected even if no copyright notice appears on the site (see section on "Providing Notice to Students").

Note that "deep linking" to a web page past the first page of a website does not give an instructor the right to use the material if the Terms of Use prohibits such use.

NOTE: Even if there are no Terms of Use on the web page it may still not be permissible to go directly to a page beyond the first page without violating the copyright holder's rights. Before the instructor selects the link for a course, she or he must first investigate, diligently, whether the website contains protected material. If so, the instructor must either obtain the necessary licenses and/or permissions or select different course material.

How does copyright apply to my distance education--online and hybrid classes?

Online classes are characterized by a complete or near-complete absence of face-to-face contact between the instructor and student and by online delivery of all instructional materials including "class sessions." Hybrid classes combine classroom learning with online learning. Unlike fully online classes, hybrid classes require some regular attendance on campus.

Distance Education and the use of copyright-protected materials to teach it are controlled by the TEACH Act (also referred to as the "Act"). The Act permits the use of many protected materials, more so than under traditional instructional settings, while at the same time imposing **greater restrictions**.

For more information, see "Online Instruction (TEACH Act) and Digital Resources" section above.

How does copyright apply to software?

Copyright laws apply to computer software just as they do to other copyright-protected material. Most licensing agreements prohibit renting, leasing or lending original copies of software. A single-user program may not be installed on more than one computer without written permission from the copyright owner. Illegal copies of software may not be used on College equipment.

Because most software copying involves copying the entire computer program, rather than a portion of it, unauthorized copying will rarely be considered fair use.

However, a copy of a program may be made if such a copy is essential to use of the program (i.e. copying onto the hard disk of one machine), if the copy is made for archival purposes only and archival copies are destroyed once the original software is transferred or sold, or if rights to copy the software have been purchased and documentation of those rights is on file.

Some types of computer software have less stringent rules on copying. These include shareware, freeware and public domain software. Shareware may typically be downloaded and used for free during a specified trial period, after which continued use requires the purchase of a license. Freeware and public domain software are made available for use free of charge for an unlimited period of time, but in the case of freeware, the author retains the rights to distribute and develop the software, and to receive credit for its authorship. Unless a software program is clearly marked "shareware," "freeware" or "public domain," the user should assume that it is copyright-protected and that permission must be obtained to copy it.

How does copyright apply to music?

Music downloads and online accessing have been the subject of expensive, hard fought lawsuits nationwide. Although the College cannot control what students do on their personal computers, College personnel should take the lead in the classroom and across campus. Copyright laws apply to music just as they do to other copyright-protected material.

All copies of sheet music and sound recordings regardless of format – CDs, internet, etc. – must include the copyright notice appearing on the original copy.

How does copyright apply to sheet music?

A music instructor may make copies of excerpts of sheet music or other printed works, provided that the excerpts do not constitute a "performable unit" such as a whole song, section, movement or aria. In no case can more than 10% of the whole work be copied and the number of copies may not exceed one copy per pupil.

Instructors may not copy sheet music to create anthologies or compilations used in class absent copyright permission to do so. Instructors may not copy from works intended to be "consumable" in the course of study or teaching such as workbooks, exercises, standardized tests and answer sheets, and like material. Sheet music should never be used for a performance absent written permission to do so. See the "Requesting Permission" section above on how to obtain permission for copyrighted works.

How does copyright apply to sound recordings (CDs, multimedia, or any other forms of audio files)?

A single recording of a performance of copyright-protected material may be made for evaluation or rehearsal purposes. The College or instructor may keep a copy. In addition, a single copy of a sound recording owned by the College or an instructor may be made for the purpose of constructing aural exercises or examinations. The College or instructor may keep a copy.

Instructors may not copy sound recordings to create anthologies or compilations used in class absent copyright permission to do so.

An instructor should not link to a sound file on a web page without prior written permission unless the page is in the public domain and the sounds are royalty-free.

How does copyright apply with Inter-library Loans?

The College library may participate in inter-library loans without obtaining permission provided that the "aggregate quantities" of articles or items received by the patron do not substitute for a periodical subscription or purchase of a work. ("Aggregate quantities" is requesting and receiving more than five articles from a single periodical within a calendar year or a total of six or more copies of articles published within five years prior to the date of the latest request would be too many under Conference on Fair Use (CONFU.)

If the articles or items being copied have been obtained through a digital license, Library Technical Services staff must check the license to see under what terms and conditions, if any, inter-library loan is permitted.

How does copyright apply to foreign works?

U.S. copyright law protections automatically apply to copyright-protected material from other countries under the terms of the Berne Convention, an international copyright treaty.

Are there special copyright provisions for persons covered by the Americans with Disabilities Act?

Under the Americans with Disabilities Act (ADA) and an Office of Civil Rights settlement agreement, compliance with copyright law requires post-secondary education institutions to "effectively communicate" with individuals with disabilities, regardless of whether the communication is via media, print or the internet. All communication (i.e. audio, video, text, web-based media) at the College must be as effective and accessible for people with disabilities as it is for those without disabilities. See also [Section 508 of the Rehabilitation Act, 29 U.S.C. § 794d](#), to which the ADA is intimately related. The College ADR office will handle transcribing a document into an alternate accessible form.