

FAIR USE GUIDELINES OF COPYRIGHTED MATERIALS

Fair use is a legal principle that provides certain limitations on the exclusive rights of copyright holders. The Copyright Act of 1976 recognizes the need for educators, scholars and students to use copyrighted materials without permission from the copyright holder. This provision is called *fair use*. Specifically, *fair use* doctrine offers a means of balancing the exclusive right of the copyright holder with the public's interest in dissemination of information affecting areas of universal concern, such as art, science, history, or industry.

The *fair use* provision of the Copyright Act allows reproduction and other uses of copyrighted works under certain conditions for purposes such as criticism, comment, news reports, teaching, scholarship, and/or research. The guidelines that follow provide principles for all members of the College community who wish to use and/or digitize copyrighted works under *fair use* rather than by seeking authorization from the copyright owners for noncommercial educational purposes.

The key determiner of *fair use* is the amount of a selected work that is disseminated without permission from the copyright holder. In determining whether the use is within the *fair use* doctrine, the following four factors must be considered:

Four factors of *fair use*:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
2. The nature of the copyrighted work
3. The amount and substantiality of the portion used in relation to the copyright work as a whole
4. The effect of the use upon the potential market for or value of the copyrighted work

Essentially, *fair use* is allowed as long as the use does not affect the economic viability of the materials. Economic viability is affected if the use in question captures the "essence" of the copyrighted work. Faculty who follow these guidelines should be covered by the *fair use* provision of the Act. However, *fair use* cannot be solely determined by resort to arbitrary rules or fixed criteria and requires examination of circumstances in each case.

Fair use applies to printed and electronically stored copyrighted works. A statement of the copyright along with clear attribution must be included with each permitted use.

Examples of Uses Permitted

Copying, with clear attribution, is generally permitted in the following instances:

1. Quoting brief passages from copyrighted works
2. Copying materials for archival purposes

3. Copying excerpts from texts which are sold to students for a per-page cost. Extensive copying is prohibited. For further information see “Copying for Course Packs” in Ithaca College’s *Copyright Policy and Guidelines*.
4. Making single copies of articles from a periodical, book chapters, short stories, charts, graphs, illustration or other material for instructional preparation
5. Making multiple copies for classroom use as long as
 - a. The copies are brief (poems, fewer than 200 words; articles, fewer than 2,500 words; prose excerpts not to exceed 1,000 words or 10% of the work, stories or essays, whichever is less; a graph or illustration).
 - b. The copying is spontaneous (one-time use to maximize teaching effectiveness).
 - c. There is no cumulative effect (only used for one course, only one work from an author or instances of multiple copying for one course).
6. Sheet music may be copied as long as it does not exceed 10% of the work and does not permit a performable unit. Works may be edited or otherwise changed as long as the overall character of the music is maintained. For further information see “Printed Music” Copying for Course Packs in Ithaca College’s Copyright Policy and Guidelines.
7. Material from the Web – such as text, sound, video, etc. – may be incorporated into a web site only if it is labeled freely reproducible and not under copyright. Many government materials are generally included in this category. It is usually permissible to include links to existing web sites on a site you have created.

Examples of Uses Not Permitted

Copying is not permitted in the following instances:

1. Copying that exceeds the limits defined in “Examples of Uses Permitted” above
2. Replacing published anthologies with copied materials
3. Copying “consumable” works (such as a workbook)
4. Copying in lieu of purchase
5. Copying the same material for successive semesters
6. Charging for copying beyond the actual cost of reproduction
7. Incorporating copyrighted material – such as text, sound, images, video, etc. -- into a web site without permission from the publisher or originator. Exception: limited-access web sites created by faculty and students. Faculty and students may include limited amounts of copyrighted material on their course sites as long as the site is password protected and they have followed *fair use* and TEACH Act guidelines.