

Copyright & Library of Congress Digital Resources

What is copyright?

Copyright law protects the creative works of authors. For the purposes of copyright law, “authors” are not only those individuals who produce written works but also those who produce musical, dramatic, or other pictorial or graphic works. Almost any type of original work can be copyrighted; the only exceptions are inventions that deal with machines, which are covered by patent law, and symbols used to identify businesses, which are covered by trademark law. Copyright gives authors exclusive right to reproduce, prepare derivative works, distribute copies, and publicly perform and display their works.

What is “Fair Use?”

Fair Use is an exception to the general rules of copyright law. It allows certain limited uses without permission from the author or owner. Depending on the circumstances, copying materials may be considered “fair” for the purposes of criticisms, comment, news reporting, teaching, scholarship, or research.

For classroom use, how does “Fair Use” apply?

The U.S. Copyright Office gives the following guidelines in “Circular 21: Reproductions of Copyrighted Works by Educators and Librarians.”

Teachers are allowed to make single copies of the following copyrighted works for their own use in scholarly research or classroom preparation:

- a chapter from a book
- an article from a periodical or newspaper
- a short story, short essay, or short poem, whether or not from a collective work
- a chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper

Teachers can also make multiple copies of the following copyrighted works for use in the classroom (with the number of copies not to exceed one copy per student in the class), provided that copying meets certain tests of **brevity**, **spontaneity**, and **cumulative effect** and that each copy includes a notice of copyright.

Brevity is defined as:

- a complete poem, if it is less than 250 words and printed on not more than two pages
- an excerpt from a longer poem if it is not more than 250 words
- a complete article, story, or essay if it is less than 2,500 words
- an excerpt from a prose work if it is less than 1,000 words or 10 percent of the work, whichever is less
- one chart, diagram, cartoon, or picture per book or periodical

The definition of **spontaneity** is as follows:

- The copying is at the instance and inspiration of the individual teacher, and
- The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

To meet the test of **cumulative effect**:

- The copying of the material is for only one course in the school in which the copies are made.
- Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
- There shall not be more than nine instances of such multiple copying for one course during one class term.

In addition, teachers are prohibited from making a copy of works to take the place of an anthology. Teachers cannot make copies of “consumable” materials such as workbooks or standardized test booklets. Copying should not substitute for the purchase of books, publishers’ reprints, or periodicals.

When trying to decide if copying is “fair,” you should keep in mind that the more copying that occurs, the less likely the use is to be fair. The less spontaneous the copying is, the less fair. If you are making digital copies or copies that will be available online, it will be less likely to be fair than if you make paper copies, given the potential impact on the copyright owner’s market.

Are the works on the Library of Congress Web site protected by copyright?

As a publicly supported institution, the Library generally does not own rights in its collections. Therefore, it does not charge permission fees for use of such material and generally does not grant or deny permission to publish or otherwise distribute material in its collections. Permission and possible fees may be required from the copyright owner independently of the Library. It is your obligation to determine and satisfy copyright or other use restrictions when publishing or otherwise distributing materials found in the Library’s collections.

Where can I find information about copyright for specific works located on the Library of Congress Web site?

The Library of Congress assesses materials for legal considerations prior to placing items online. A Restriction Statement accompanies each American Memory collection. This statement provides known information regarding ownership of materials in the collection. If known, the Library includes contacts for requesting permission. In some cases the Restriction Statement will indicate that material in a particular collection may be used freely; in other cases the Restriction Statement may only be a starting point for your inquiry. A Rights and Restrictions Statement also accompanies the bibliographic information for digital images. Information about rights and restrictions for some materials held by the Prints and Photographs Division can also be found at <http://www.loc.gov/rr/print/res/rights.html>.

What is *public domain*? What materials are in the *public domain*?

Works that are in the **public domain** may be used freely without restrictions. Works published before 1923 are now in the public domain. In addition, works that were created by employees of the federal government as part of their jobs are in the public domain. For example, you may use American Life Histories: Manuscripts from the Federal Writers’ Project, 1936–1940, materials in the American Memory collection without being concerned about infringing someone’s copyright.

How do I conduct a search to determine the copyright status of an item?

Teachers wanting an item checked for copyright are advised to make a search of the records of the U.S. Copyright Office themselves, hire someone qualified to do so for them, or pay the Copyright Office for a search. Further information is available in Circular 22, “How to Investigate the Copyright Status of a Work,” and from the Search Division of the U.S. Copyright Office (telephone 202-707-6850).

How do I cite sources?

You should always credit your sources, even if they are in the public domain. The Learning Page provides information on how to cite sources from the Library of Congress at <http://memory.loc.gov/learn/start/cite/index.html>.

May I link to the Library of Congress collections? Do I need permission?

If you wish to link to a page located on the Library of Congress Web site, you may do so without permission as long as your link makes it clear that there is a transition to another site and that you do not present the link in a way that implies that the Library of Congress is endorsing a particular product, service, or organization.