Frequently Asked Questions about Copyright

From the Brandeis University Libraries Website

What is copyright?
Copyright refers to the right of a creator - an author, artist, composer, etc. - to control the use of his or her work by others. The federal copyright statute, Title 17, U.S. Code, consists of a bundle of exclusive rights (see Section 106, "Exclusive Rights in Copyrighted Works"), including the rights to reproduce, distribute, perform and publicly display a work.

When is a work protected by copyright law?
A work is protected under copyright law from the moment it is created and "fixed in a tangible medium of expression", and "perceptible either directly or with the aid of a machine or device."

What can be protected by copyright law?
Intellectual property protected by copyright law includes literary works, musical, dramatic and choreographic works, pictorial/graphic works, motion pictures and other audiovisual works, and computer software databases and multimedia.

How long does copyright last?
For works created after January 1, 1978, protection lasts for the life of the author plus 70 years.

What cannot be copyrighted?
The copyright statute protects only those works which are "fixed in a tangible medium of expression." Neither an idea nor a concept can be copyrighted - only the form in which an idea or concept is expressed. Other examples of works that cannot be copyrighted are:

- lists (which show no originality);
- factual information;
- titles, names, short phrases, and slogans (In some cases these may be protected under trademark law);
- information in the public domain, including: works no longer covered by copyright; works without notice of copyright before 1989; government documents.

Must an author register his or her work with the U.S. Copyright Office in order for the work to be protected?
No - as of March 1, 1989, when the United States joined the Berne Convention, the copyright notice is NOT required to be affixed to a work. (Copyright owners continue to be advised to affix the copyright notice (the symbol ©, date, and name of legal owner) in order to take full advantage of the legal privileges available to registered works. The copyright notice makes it difficult for infringers to claim innocence, and also makes easier the job of contacting the copyright owner in order to request permission to use the work in a lawful manner. In most cases, registration with the U.S. Copyright Office is required before filing suit for infringement.)

What is "fair use"?
The "fair use" provision of the copyright statute (Section 107 "Limitations on exclusive rights: Fair Use"), allows for reproduction of portions of copyrighted materials without permission of the copyright owner "for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research". Fair use applies to all copyrighted works, regardless of media, including those fixed in print, electronic and multimedia formats. For a comprehensive discussion of the Principles of Fair Use, as well as a terrific series of examples illustrating the application of fair use in situations involving the non-profit educational use of print,
multimedia, distance learning and electronic reserves, see the University of Georgia's Regents Guide to Understanding Copyright and Educational Fair Use.

**What are the "Guidelines for Classroom Copying"?**
The Guidelines for Classroom Copying in Not-For-Profit Educational Institutions With Respect to Books and Periodicals, written by a group consisting of the Ad Hoc Committee of Educational Institutions and Organizations on Copyright Law Revision, the Authors League of America, and the Association of American Publishers (AAP), were published as part of the House Report that accompanied the Copyright Act of 1976. It is important to note that the purpose of these guidelines is to state the minimum and not the maximum standards of educational fair use. There may be instances in which copying that does not fall within the guidelines may nonetheless be permitted under the criteria of fair use. The Guidelines allow a single copy to be made by or for a teacher for his or her scholarly research or for use in teaching or preparation to teach a class, of any of the following:

- 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.

The Guidelines allow for the reproduction of multiple copies for classroom use, as long as the copying meets the tests of brevity (such as a short poem or article, or 10% of a book), spontaneity (the inspiration and decision to use the work at the moment that would most benefit students did not allow for sufficient time to seek permission), and cumulative effect (this test limits the copying of works from the same author, collective work or periodical volume during one class term, as well as the number of instances of such multiple copying for one course during one class term).

**What is the American Library Association's (ALA) "Model Policy" with regard to photocopying for classroom and library reserve use?**
Because the Guidelines for Classroom Copying are in many ways inadequate for the college and university level, the American Library Association published its Model Policy Concerning College and University Photocopying for Classroom, Research and Library Reserve Use in 1982. With regard to classroom uses, the guidelines recommend the following:

- the distribution of the same photocopied material does not occur every semester;
- only one copy is distributed for each student;
- the material includes a copyright notice on the first page of the portion of the material photocopied; and
- students are not assessed any fee beyond the actual cost of the photocopying.

**How can I obtain permission to use a copyrighted work?**
You may request permission to use the copyrighted work from the author/copyright owner, preferably in writing.

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[http://www.library.brandeis.edu](http://www.library.brandeis.edu)