

# Creativity & Copyright

A QUICK-GUIDE FOR STUDENTS & EDUCATORS

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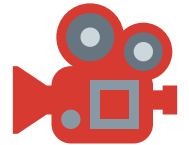
## ➔ What is and isn't protected by copyright?



The U.S. Copyright Office says that copyright “protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture.” Copyright does not protect “facts, ideas, systems, or methods of operation,” although it may protect the way these things are expressed. Anything created before 1923 is no longer covered by copyright.

## What do you need to do to copyright something? ⬅

Create something. Original works are protected by copyright automatically, once they are created and put in tangible form. You don't need to register them with the U.S. Copyright Office, but you can if you want a public record of your ownership to exist. A copyright mark © is not required.



## ➔ Is it ever OK to use copyrighted content without permission?



Yes. In an educational setting, “Fair Use” often permits students or educators to use portions of someone else's copyrighted work without getting permission. For example, if you were to use a copyrighted image in a student project, that would be OK but if you posted it to a public website, it might not be OK. Ethics, courtesy and academic integrity and policies may further impact what you can use and your responsibility to credit your source.

## Are there copyright-free resources available for use? ⬅

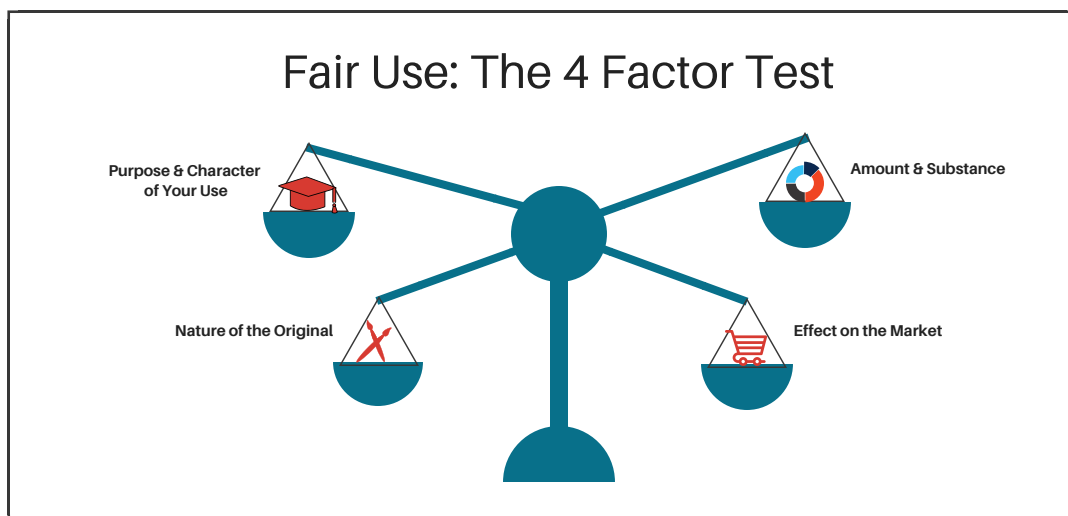
Yes, there are many sources of images, videos, audio recordings and even text that can be used by nearly anyone. Instead of a traditional copyright, some material is covered by a Creative Commons license that grants users permission to use that material. Be sure to pay attention to the terms associated with a particular piece of content that dictate whether it can be used.



## Fair use is a balancing act.

Unfortunately, there is no hard-and-fast rule about what counts as fair use. Instead, fair use is determined on a case-by-case basis using a legal balancing test that weighs four key factors and can sometimes be tricky to apply. Courts consider all four factors together – no single factor can determine the outcome one way or another. Under this legal test, a use is more likely to qualify as fair use if:

1. You use the original for a new purpose such as commentary, news reporting, criticism, or education, or to create a new work that transforms the original by adding new expression.
2. The original you want to use is primarily informative or factual in nature, as opposed to highly creative. (But, courts often give this factor less weight than the others, so highly creative works can still be subject to fair use when other factors point that direction.)
3. Where possible, you use only a small portion of the other person's work and only as much as you need to make your point – such as a single paragraph from a much longer text or a short clip from a much longer video. In some cases, it is still fair use if you need a whole creative work, like a whole video or song, but in general the more you use the less likely it is to be fair use.
4. Your use won't be able to replace the original in the marketplace – the owner/artist would still be able to distribute their work as they choose.



## Plagiarism vs. copyright.

Plagiarism is when you pass off someone else's work or ideas as if they are your own. Attribution and citation are essential when using other people's work, regardless of copyright status. Copyright is meant to give the creator a degree of control over their original work and how it is disseminated. You can violate a copyright even if you do give attribution if you're not authorized to use it either by permission or fair use.

## Just because it's "legal" doesn't mean it's right.

There are many things in life that may be legally permissible, but perhaps unethical or in violation of academic standards. For example, breaking a promise is not necessarily illegal, but many would agree that it is unethical. When it comes to accessing, creating, and sharing creative works, there are similar concerns about both laws and ethics.

*This Quick-Guide is based on the free booklet *The Educator's Guide to Creativity & Copyright* by Kerry Gallagher, Larry Magid & David Sohn. Available at [ConnectSafely.org/Copyright](http://ConnectSafely.org/Copyright). Creative Common License – attribution required.*

