**Introduction**

What is copyright and what is covered by copyright?

What is not covered by copyright?

How long does copyright protection last?

How can I use copyright protected materials legally?

Where can I find multimedia resources for use in a project?

What is the difference between copyright and plagiarism?

Copyright for the fun of it!

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Please keep in mind that the information presented within this site is only general information. Legal advice must be provided in the course of an attorney-client relationship specifically with reference to all the facts of a particular situation. Such is not the case here, so this information must not be relied on as a substitute for obtaining legal advice from a licensed attorney.
Introduction

When you create a work – write a paper for a class; develop a logo for your sports team; write lyrics or compose music for a song; or choreograph a routine for your dance troupe, as long as it is original (it’s your work, not copied from someone else), and it is creative, and then “fixed in a tangible medium” (a typed paper, written dance steps, a written or recorded song) you are the author and you hold the copyright to that work.

As you’ve put time, effort, and creativity and perhaps funds into producing a work, you wouldn’t want someone else using it, changing it, or passing it off as their own without your permission. In the United States copyright is automatic when the work is original, creative and fixed, which means there are a lot of copyrighted works!

Why is learning about copyright important? You may have seen copyright notices on YouTube, Flickr, and Facebook – all ask if you own the rights to photos and videos that you want to upload. For example, if you record U2 or Lady Gaga performing live in concert on your cell phone, can you legally place it online? The answer is no. Just because you recorded the video, does not mean you own the content, or the song – you do not have the rights of the copyright owner. Facebook, YouTube and Flickr all have very good copyright and intellectual property sections located under their Terms of Use, About, or Help sections.

If your professor uses ANGEL, Buffalo State’s course management system, content created by the professor such as lecture notes are copyright protected. There may be other content within an ANGEL course that is copyright protected, such as journal articles or other readings and you shouldn’t redistribute them to others outside of the class.

The information in this educational resource comes from the United States Copyright Office.  
http://www.copyright.gov/
What is copyright and what is covered by copyright?

Did you know that copyright is included in a clause within the U.S. Constitution? In August of 1787 James Madison, one of the framers of the Constitution, submitted a provision “to secure to literary authors their copyrights for a limited time.” And so, Article I, Section 8, Clause 8 of the U.S. Constitution, states “the Congress shall have power . . . to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.”

Copyright is a form of protection provided to the author of an original, creative work once it is “fixed in a tangible medium” of expression. Original authors benefit from these exclusive rights:

- To reproduce the work in copies or phonorecords;
- To prepare derivative works based upon the work;
- To distribute copies or phonorecords of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- To perform the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works;
- To display the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work; and
- In the case of sound recordings, * to perform the work publicly by means of a digital audio transmission.

*Note: Sound recordings are defined in the law as “works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work.” Common examples include recordings of music, drama, or lectures. A sound recording is not the same as a phonorecord. A phonorecord is the physical object in which works of authorship are embodied. The word “phonorecord” includes cassette tapes, CDs, and vinyl disks as well as other formats.

The following is a list of the categories of works that are protected by U.S. Copyright law:

1. Literary works
2. Musical works, including any accompanying words
3. Dramatic works, including any accompanying music
4. Pantomimes and choreographic works
5. Pictorial, graphic, and sculptural works
6. Motion pictures and other audiovisual works
7. Sound recordings
8. Architectural works

Students may use copyright protected materials in their course work as long as they are properly cited. Course work that includes copyright protected materials should not be made available to the general public (e.g. posted on a web site). While there are no legal rules permitting the use of a specific number of words, a certain number of musical notes, or percentage of a work, students should take care to only use a “reasonable and limited portion” of a copyright protected work.

1 U.S. Copyright Office, United States Copyright Office A Brief History and Overview, available at [http://www.copyright.gov/circs/circ1a.htm](http://www.copyright.gov/circs/circ1a.htm)
**What is not covered by copyright?**

There are some works that cannot be copyrighted. These include works published in the United States prior to 1923, and works produced by federal employees within the scope of their employment.

Other examples of works that cannot be copyrighted are:

- Works that have not been fixed in a tangible form of expression (for example, choreographic works that have not been notated or recorded, or improvisational speeches or performances that have not been written or recorded).

- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents.

- Works consisting entirely of information that is common property and containing no original authorship (for example: standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources).

- Ideas cannot be copyrighted and neither can procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration.

- Titles, names, short phrases, and slogans cannot be copyrighted. You cannot copyright the name of your band, but you may be able to request trademark protection for the logo that includes the name within an image. An example is the Nike brand slogan “Just Do It.” While it does not have copyright protection, it is covered under a trademark and still cannot be used without permission.

There are some works that never had copyright protection to begin with or works that no longer have copyright protection. These works are free for anyone to use and they are considered in the “public domain.” Works in the public domain include most materials and reports created by the United States government, like Census data.

Works published in the United States prior to 1923 are in the public domain. Remember, just because you can use a public domain works without permission does not mean you don’t need to cite the use of the work. By not citing the use of the work, you may be plagiarizing. Plagiarism is the presentation of someone else’s words, images, and other materials as your own without giving credit to the original author or authors. See What’s the Difference Between Copyright and Plagiarism?

How can you tell if a work is safe to use without permission? Use the Digital Copyright Slider [here](http://librarycopyright.net/digitalslider/).
One of the guiding principles of the copyright clause in the U.S. Constitution is to give authors control over their work as an incentive to create new work. Copyright protection originally lasted 14 years and could be renewed once for an additional 14 years.

The length of copyright protection has changed considerably since the 1700’s. Now, under the current Copyright laws, copyright protection starts from the moment of creation of the work in a fixed and tangible medium and continues until 70 years after the death of the author or artist.

For example, if someone creates a work at age 20 this year (2010) and dies when she/he is 85 in the year 2075, the copyright will not expire until 70 years after 2075 – in the year 2145, which is 135 years away!

For more information regarding the length of a copyright, please see the copyright duration chart.
How can I use copyright protected materials legally?

You will need to review the resources you have compiled for your course project. Are they copyright protected resources (i.e. are they original, creative and fixed)? If so, is your use of them covered under Fair Use?

Fair Use is a statute within U.S. Copyright law. It states that using a copyrighted work for purposes such as criticism, comment, news reporting, teaching, scholarship, or research, is not an infringement of copyright. The Fair Use Statute is a set of four factors that are used to determine if a use is fair or not. Whether a use qualifies as fair use depends on all the factors.

The factors that need to be considered are:

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 copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.

The easiest way to determine if your use is a fair one is to use a fair use checklist. A fair use checklist is a tool, not legal advice.

Fair Use Checklist as a PDF file (requires Adobe Acrobat Reader): [http://copyright.cornell.edu/policies/docs/Fair_Use_Checklist.pdf](http://copyright.cornell.edu/policies/docs/Fair_Use_Checklist.pdf)
Fair Use Checklist in HTML format: [http://copyright.cmich.edu/fairuse/checklist.html](http://copyright.cmich.edu/fairuse/checklist.html)

If you are still unsure after using the fair use checklist, consult with your instructor or a librarian in Butler Library.

If you determine your use of the material falls under the Fair Use Statue of the Copyright Law, use it and remember to properly cite it! For assistance, go to the [Style Guide Help](http://www.butterlib.org/styleguide) on the Butler Library Web site.

If you determine your use of the copyright protected material is not fair use, you can decide to not use it and substitute a work from the public domain, or you can try to find copyright holder and request permission to use the work. Columbia University has a comprehensive user-friendly Web site that details steps to take to locate the owner of a work: [http://copyright.columbia.edu/copyright/permissions/](http://copyright.columbia.edu/copyright/permissions/).
What is the difference between copyright and plagiarism?

- Copyright is a law. Plagiarism is college policy.
- Copyright infringement may get you sued. Plagiarism can result in a failing grade or dismissal from college.
- Properly citing the source may satisfy BSC’s plagiarism policies, but proper citation alone cannot be used as a defense in a copyright infringement lawsuit.

Be aware of what you can’t do, but think about what you CAN do. For assistance consult a librarian in Butler Library.

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Always read terms of use before making use of any content in any database or website. Links to terms of use may be different on each web site or database. Look for a link within the About section or near the bottom of the site or database main page.

For Buffalo State College students:  
Use the Butler Library catalog to search for multimedia. [http://library.buffalostate.edu/research/find_multimedia.php](http://library.buffalostate.edu/research/find_multimedia.php)

Buffalo State licenses the databases on the Multimedia site funded with your technology fee. Remember to read the terms of use and cite any audio, images, or video you choose to use with the appropriate citation format. See [Style Guide Help](http://library.buffalostate.edu/research/find_multimedia.php). Check with a librarian if you need assistance.

The resources below link to Internet sites that contain audio, images, and video content. 
Please be sure to read and follow the terms of use for each site.

### Audio
- YouTube's Audioswap [http://www.youtube.com/audioswap_main](http://www.youtube.com/audioswap_main)

### Images
- Creative Commons [http://creativecommons.org/](http://creativecommons.org/)
- Flikr Free Use Photos [http://www.ncwiseowl.org/blog/copyright/Resources.htm](http://www.ncwiseowl.org/blog/copyright/Resources.htm)
- Open Photo [http://www.ncwiseowl.org/blog/copyright/Resources.htm](http://www.ncwiseowl.org/blog/copyright/Resources.htm)
- Smithsonian Photographs [http://photography.si.edu/default.aspx](http://photography.si.edu/default.aspx)

### Video
- MERLOT [http://www.merlot.org](http://www.merlot.org)
- YouTube and Teacher Tube [http://www.youtube.com](http://www.youtube.com) and [http://www.teachertube.com](http://www.teachertube.com)
Copyright for the fun of it!

Watch A Fair(y) Use Tale (distributed by The Media Education Foundation) created by Eric Faden of Bucknell University.

Sculptural works are copyright protected! For example, the Statue of Liberty:

Mark Twain spoke at hearing before the U.S. Congress in support of author’s rights and international copyright law:
http://www.loc.gov/wiseguide/aug04/grandchildren.html

It was not until 1912 that copyright protection included motion pictures (movies). http://www.copyright.gov/history/lore/2004/oct04-lore.pdf

Additional copyright resources for students

A video from Northern Kentucky University “David Lafkas, an attorney specializing in intellectual property, offers students basic introduction on copyrights, trademarks, and patents.”
http://video.nku.edu/index.php/videos?task=viewvideo&video_id=831

Fair use guidelines for educational multimedia from the University of Texas:
http://www.utsystem.edu/ogc/intellectualproperty/ccmcguid.htm