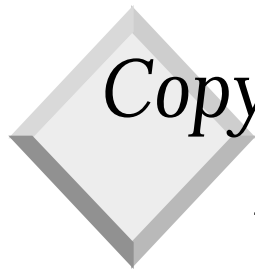


# *Copyright*

## *Is It Fair Use or Is It Criminal Use?*

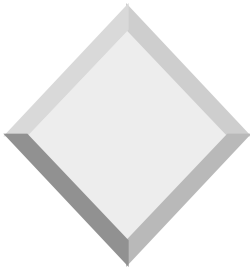
**Gail McMillan, director  
Scholarly Communications Project**



Copyright

*1 of 4 property protection laws*

- ❖ trademarks
- ❖ trade secrets
- ❖ patents
- ❖ copyright



*United States Copyright Law*  
*Title 17 of US Code*

**protects an original expression**  
**as soon as**  
**it is fixed in a tangible form**




## *5 rights of copyright holders*

- ❖ reproduction
- ❖ modification
- ❖ distribution
- ❖ public performance
- ❖ public display



# *Who owns the copyright?*

- ❖ **authors/creators of original works**
- ❖ **employer: work for hire**




## Why register a copyright?

- ❖ to file an infringement suit
- ❖ to *possibly* receive greater compensation



# *Myths about Copyright*

- ❖ **Just a little bit**
- ❖ **Attribution is as good as permission**
- ❖ **Free advertising**
- ❖ **I modified it; now it's mine**
- ❖ **It doesn't say its copyrighted**




*March 1, 1989*

© warning no longer has to appear

© 1996 by Gail McMillan OR

**Copyright 1996 by Gail McMillan**





*Permission or license is not  
required when:*

- ❖ **work is in the public domain**
- ❖ **work is a fact or an idea**
- ❖ **fair use**

US Code, Title 17, chap. 3

*When Works Pass into the Public Domain*

*L. Gassaway 1995, G. McMillan 1996*

<b>Date of work</b>	<b>Protected From</b>	<b>Term</b>
Created 1/1/78 or after	When work is fixed in tangible medium of expression	Life + 50 years (or, if work of corporate authorship, 75 years from publication, or 100 years from creation, whichever is first)
Published 1964-1977	When published with notice	28 years for first term; now automatic extension of 47 years for second term
Published between 75 years ago and 1963	When published with notice	28 years + could be renewed for 47 years; if not so renewed, now in public domain
Published more than 75 years ago	Now in public domain	None
Created before 1/1/78 but not published	1/1/78, the effective date of the 1976 Act which eliminated common law copyright	Life + 50 years. All works that remain unpublished as of 12/31/2002 will pass into public domain on that date
Created before 1/1/78 but published between then and 12/31/2002	1/1/78, the effective date of the Act which eliminated common law copyright	Passes into public domain 12/31/2027



# *Myths about copyright*

- ❖ It's OK--it's for *educational* purposes
  - What is fair use?



*Fair use*

- ❖ criticism, comment, news reporting, teaching, scholarship, research
  - *educational use alone is not enough to qualify for fair use*
- ❖ not for entertainment or financial gain



*Fair use*

Consider how *ALL* 4 factors effect the copyrighted work

- ❖ purpose and character
- ❖ nature
- ❖ amount and substantiality
- ❖ effect




## *Purpose and character of use*

- ❖ **commercial or educational purposes**
  - for profit or non-profit
- ❖ **stated purposes from the law**
  - criticism
  - comment
  - news reporting
  - teaching
  - scholarship
  - research
- ❖ **degree of transformation**



*nature of copyrighted work*

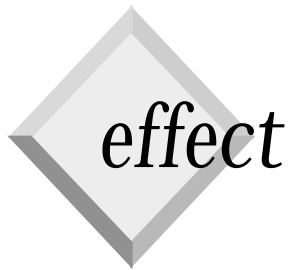
- ❖ *character of the work*
- ❖ “**spectrum of worthiness**”



*amount*  
*substantiality*

❖ **quantity and quality in relation to the whole work**





- ❖ **potential market or value of the work after a portion of it is used separately from the whole**



# *CCUMC Fair Use Guidelines*

**Consortium of College and University  
Media Centers**

**Fair Access Working Committee**

**from the Copyright Management Center**

**<http://www.iupui.edu/it/copyinfo/ccumc.html>**



*Fair use for educational multimedia*

- ❖ **student use**
- ❖ **instruction in multimedia development**
- ❖ **face-to-face curriculum-based instruction**
- ❖ **peer conferences**
- ❖ **remote instruction**
- ❖ **time limitations**
- ❖ **portion limitation**



## *educational multimedia fair use*

### ❖ student use

- portion of a copyright work
- proper attribution and citations
- perform and display
- retain in personal portfolios



## *educational multimedia fair use*

- ❖ **instruction in multimedia development**
  - portion of a copyright work
  - producing multimedia programs
    - ◆ for teaching tools
    - ◆ support identified curriculum



## *educational multimedia fair use*

### ❖ **in-class curriculum-based instruction**

- portion of a copyright work
- producing multimedia programs
  - ◆ for teaching tools
  - ◆ support identified curriculum



*educational multimedia fair use*

- ❖ **performances or displays at workshops and conferences**
  - present teaching tools created for in-class teaching to colleagues



*educational multimedia fair use*

- ❖ **distance learning and satellite instruction**
  - limited access
  - limited to students enrolled





*educational multimedia fair use*

❖ **time limitations**

- 2 years
- longer use with permission



# *educational multimedia fair use*

## ❖ **portion limitations**

- motion media
- textual materials
- musical composition
- illustrations and photographs



*educational multimedia fair use*

❖ **motion media portion limitations**  
**10% or 3 minutes**



*educational multimedia fair use  
portion limitations*

❖ **textual materials**

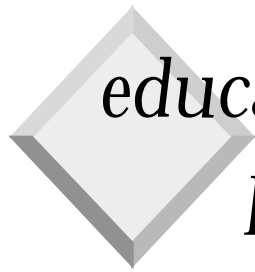
<10% or 1000 words

❖ **<250 word poem**

- whole work
- not more than 1 poem by one poet
- not more than 5 poems from an anthology

❖ **>250 word poem**

- not more than 1 poem by one poet
- not more than 5 poems from an anthology

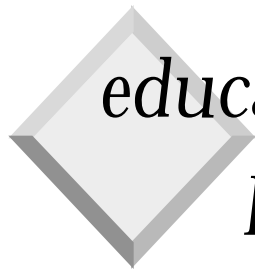


*educational multimedia fair use  
portion limitations*

❖ **music**

**<10% of a musical composition**

**>30 seconds or more of a sound recording**



*educational multimedia fair use  
portion limitations*

- ❖ **illustrations and photographs**
  - <5 images of one artist or photographer
  - <10% or 15 images from a collective work



*educational multimedia*

- ❖ **permission is required**
  - commercial reproduction and distribution
  - making copies and/or distribution beyond the institution
    - ◆ whole or a portion
  - uncontrolled access via electronic networks



## *educational multimedia*

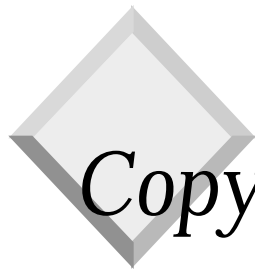
- ❖ **Get permission. These are not fair uses:**
  - commercial reproduction and distribution
  - more than one copy
  - distributing whole or in part
  - uncontrolled network transmissions





## *Principal References*

- ❖ Consortium of College and University Media Centers (CCUMC), Fair Access Working Comm.
  - Copyright Management Center, IUPUI
    - ◆ <http://www.iupui.edu/it/copyinfo/ccumc.html>
- ❖ Copyright Law Materials
  - Legal Information Institute, Cornell Law School
    - ◆ <http://www.law.cornell.edu:80/topics/copyright.html>



# *Copyright and Fair Use*

**Gail McMillan**

**Director, Scholarly Communications Project**

**[gailmac@vt.edu](mailto:gailmac@vt.edu)**

**(540) 231-9252**