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Copyright Law for Educators

Glendale Community College

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North America Europe Asia

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LLP

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Introduction

- About Me
- Disclaimer
 - Legal information, not legal advice
 - For actual legal advice, would need specifics of your situation. If you need legal advice, contact an attorney.
- Copyright Law in General
 - Exists when an original work is fixed in a tangible medium of expression.
 - No registration requirement, no notice requirement since 1989.
 - Copyrights exist only for “limited times.”

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Copying Works for Classroom Use

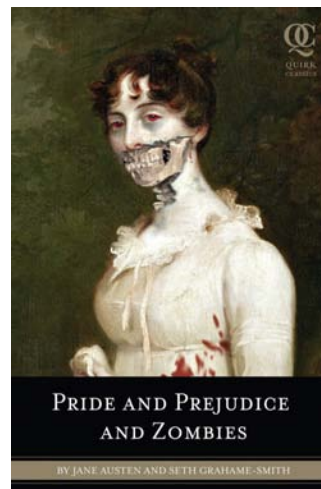
- Step One: Is the work protected by a copyright?
 - If no, permission is not required.
 - If yes, proceed to Step Two.
- Step Two: Would copying the work be protected under “fair use”?
 - If yes, permission is not required.
 - If no, proceed to Step Three.
- Step Three: Obtain permission

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Public Domain

- Don't need permission to copy, repackage, or resell works in the public domain.
- Rules are complicated and constantly changing.



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Public Domain Rules

- Published before January 1, 1923: Public domain.
- Published after January 1, 1978: Copyright protected for life of author plus 70 years.
- Published between January 1, 1964 and December 31, 1977: Copyright protected for 95 years if publication included copyright notice.
- Published between January 1, 1923 and December 31, 1963: Copyright protected for 95 years if publication included copyright notice and copyright was renewed.

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Fair Use

- Copyright Act: No infringement for “fair use” of copyrighted works for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.
- Protections for educators on same level as protections for free speech (criticism/comment) and free press (news reporting).
- Important: Not all educational uses constitute “fair use.” Must consult the factors.
- No bright-line rules.

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Fair Use Factors

- Purpose and Character of the Use
 - Educational vs. commercial
- Nature of the Copyrighted Work
 - Published vs. unpublished
 - Factual vs. artistic
- Amount and Substantiality of Portion Used
 - The more you use, the less likely will be fair use
 - The more times you use it, the less likely will be fair use
- Effect of Use on Potential Market for Work
 - Biggest limitation on use of copyrighted materials in the classroom
 - Don't use works intended for classroom use (e.g., textbooks)

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Guidelines for Classroom Copying

- To provide some clarity, fair use guidelines negotiated between copyright owners and certain educational institutions.
- These are not law, but were included in the legislative history of the Copyright Act and courts will almost definitely adhere to them.
- These are *minimums*, not maximums
- Does not apply to course packs, only copying for distribution in class.

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Guidelines for Classroom Copying

(Must satisfy all three)

- **Brevity**
 - Poems: Less than 250 words
 - Complete articles/stories: Less than 2,500 words
 - Excerpts: 10% of work or 1,000 words, whichever is less
- **Spontaneity**
 - Decision to use work must be made close in time to the need for the work (i.e., impractical to seek permission)
- **Cumulative Effect**
 - Not more than one work per author.
 - Cannot use same material from term to term.

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Making Fair Use Decisions

- Should make reasoned fair use decisions by working through the factors.
- **What Happens If You're Wrong?**
 - Most likely, nothing.
 - Might receive a cease and desist letter. If you comply with the demand, probably will be fine.
 - Even if you ignore cease and desist letter, Copyright Act provides for no damages if infringer reasonably believed that fair use would apply and the infringer is an employee or agent of a non-profit educational institution.

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Obtaining Permission

- The safest route is to obtain permission, especially when using work from term to term and/or using in a course pack.
- Can contact copyright holder/publisher directly or visit Copyright Clearance Center at www.copyright.com.
- Cost for permission may be lower than you think, maybe free.

Special Issues

- **Linking**
 - In general, linking to websites will not constitute infringement.
- **Playing Movie Clips and Songs In Class**
 - Allowed, assuming copy played was legitimately acquired.
- **Plagiarism vs. Infringement**
 - Not the same thing.
- **Copyright Notices**
 - Whether you distribute copies in class or include in a course pack, always include copyright notices.

Conclusion

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