



Copyright Law

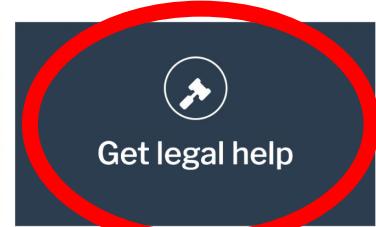
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 Student Press Law Center

This presentation provides a brief and basic overview of the most common copyright law issues faced by high school student journalists. Allowing for a few questions or comments along the way, it should last approximately 45 minutes and is designed to help students and their advisers identify and avoid some of the most common legal traps.



This presentation will not make you a First Amendment expert. What it will do, I hope, is help you make more informed decisions and give you a better sense of when you might have a problem that requires outside help. For those situations, you may want to keep the contact information for the Student Press Law Center handy. The SPLC is a nonprofit organization, founded nearly 50 years ago, based in Washington, D.C.

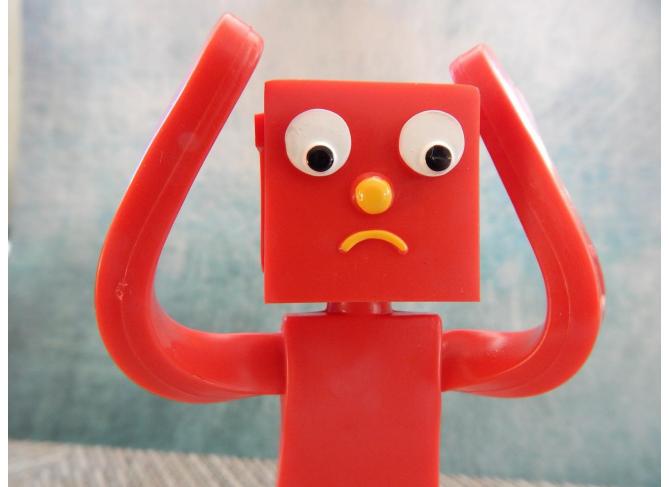
The Center provides free legal help and information to student journalists and their advisers on a variety of media law issues. We're going to talk about copyright today, but the Center is ready to help you answer questions on pretty much any media law issues, including things like censorship, access to public records and meetings, libel and privacy. More information is available on the SPLC Web site — splc.org — and in various resources produced by the Center.

You can also use their free Hotline Service to submit an email or schedule a telephone call with one of their lawyers.

Well, let's get started.

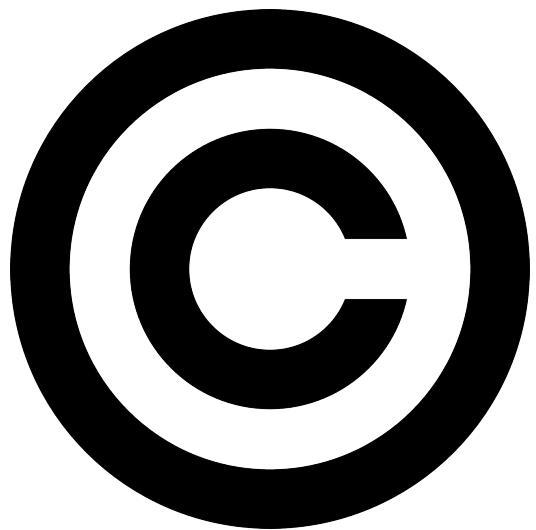
Why should YOU care?

- You could get fined
- You could go to jail
- You have rights



Copyright may seem like a bit of a heavy topic for student journalists, but questions about copyright are among the top most-asked questions we field at the SPLC. Copyright infringement is a federal offense. You can be sued for damages in civil court. Damages range from \$200 to \$150,000 per infringement. And, under certain circumstances, it's a crime that holds potential jail time. On the flip side of things, you also have rights as a writer or photographer and copyright owner yourself, so you better learn them so you can exercise them when the need arises.

What Is Copyright?



So, what do we mean when we talk about copyright ownership?

Copyright protects property

- Your work is your property much like your car or your computer



Simply speaking, it's a property right. A person owns a copyright in much the same way he owns a car. Just like you can't use someone else's car without the owner's permission, you generally can't use someone's copyrighted work without first obtaining consent.

Additionally, just as no one but the car owner can sell, give away, or change the appearance of a car, (generally) no one but the copyright owner may legally transfer or alter a copyrighted work.



Purpose

What's the point
of copyright?

“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.”

— U.S. Constitution,
Art. 1, Sec. 8, Clause 8

The U.S. Constitution states that the purpose of copyright is 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 law encourages and rewards the creativity of authors and artists. If, for example, members of the public (or a movie studio) could freely copy the Harry Potter series without compensating or obtaining permission from author JK Rowling, she and other authors would likely be unwilling to invest the time, energy and resources necessary to create books in the first place. Copyright, therefore, ensures a robust collection of original works available for public enjoyment and benefit, which is its main goal. The goal is to encourage creativity without fear.

General Copyright Rule

- If you didn't create the work and/or own the copyright to it, you **must** get permission to use it
 - Just giving credit is not enough
-

The next thing that's important for you to know is the general copyright rule, which is this: If you didn't create the work or if you don't own the copyright to it, you must get permission before using it.

Many people mistakenly believe that as long as they give credit to the source, they are complying with copyright law. For example, if you get a photo from another publication and then credit that publication or that photographer for taking the photo. But if you didn't take the picture yourself or own the copyright to it, you must get permission to use it. Giving credit isn't enough as far as the law is concerned.

Requirements for copyright



- **Originality**
 - Small spark of creativity
- **Fixation**
 - “Fixed in any tangible medium of expression”
- **Expression**
 - No protection for thoughts and ideas with nothing further



Not everything can be copyrighted. Here are the criteria.

Originality: You need to have shown at least a small spark of creativity when creating the work. For example, arranging names in a telephone book alphabetically lacks the creativity necessary to qualify for copyright protection.

Fixation: The work must be “fixed in any tangible medium of expression”— which means that only works preserved in a tangible form (a book, newspaper, video, recording, website, etc) will receive copyright protection. For example, if you perform a song for a friend but don’t record it, notate it, or write down the lyrics, it won’t receive copyright protection. Things aren’t protected by copyright until they are in a state that is capable of being reproduced.

Expression: along the same lines as fixation. The point here is that thoughts and ideas that just exist in someone’s mind are not copyright protected. If you just have an idea for a book, it won’t receive copyright protection unless you express it in some way.

Which of these can be copyrighted?

- An idea for a TV show that is a spinoff of *Friends*
- A cartoon that runs with an editorial
- A list of ingredients for your grandma's famous apple pie
- The words "Just Do it"



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- **A cartoon that runs with an editorial**
- A list of ingredients for your grandma's famous apple pie
- The words "Just do it"



The correct answer is B, a cartoon that runs with an editorial. An idea for a TV show that has not been expressed in any tangible way doesn't meet the fixation and expression prongs of the copyright requirements.

A recipe, at its core, is simply a list of ingredients with the appropriate proportions and instructions on how to combine them. As wrong as it may seem, your secret family recipe cannot be copyrighted because it doesn't meet the requirement for originality. Courts have said the identification of ingredients necessary for the preparation of a dish is just a statement of facts, which receives no copyright protection.

(If anyone asks, a way to get around this is trade secrets. Like the recipe for coca cola, etc.)
Just Do It slogan doesn't meet requirement for originality either. The words themselves aren't original enough.

Things that CANNOT be copyrighted:

- Ideas
- Facts
- Procedures
- Concepts
- Short phrases
- Titles (but these may be protected under trademark law)
- Ingredients
- Slogans



Here we have some common examples of things that cannot be copyrighted.

Ideas, facts, procedures, concepts, short phrases, titles, ingredients, and slogans are just a few.

For example, in the previous question the Nike slogan “Just Do It” is just a short phrase that does not receive copyright protection. Therefore, it could be used as a headline or tag to illustrate a photo collage or even as the theme of a yearbook. However, using the words “Just Do It” complete with the same typeface and the swoosh logo that Nike uses is probably a no-no because the design of the ad is sufficiently creative to meet that requirement for copyright.

Federal works are not protected by copyright



First Dog Bo (White House photo/Chuck Kennedy)



New York, NY, September 25, 2001 – A rescue worker overlooks the rubble from the collapsed World Trade Center. Photo by Mike Rieger/ FEMA News Photo (www.photolibRARY.fema.gov)



Source: NASA, Photo by Rodney Grubbs



Other works that cannot be copyrighted are those prepared by an officer or employee of the federal government as part of that person's official duties. These works are considered to be in the public domain. This includes most federal government records, photos from FEMA, White House photographer photos, etc. Some state and local government records are also not protected.

Websites where you can get works made by U.S. government employees include the White House, NASA, State Department, Defense Department, National Park Service, FEMA.

Things that CAN be copyrighted

- Photos
- Stories
- Illustrations
- Cartoons
- Advertisements
- Sound recordings
- Works of art
- Musical compositions
- Computer programs



This is a list of things that can be copyrighted. It's not an exhaustive list, but it will give you a good idea of some examples. Photos, stories, illustrations, cartoons, advertisements, sound recordings, works of art, musical compositions, and computer programs.



True or False?

A work that does not display a copyright notice is not protected by copyright and can be used freely.

Now I want to take a moment to do a little true and false.
A work that does not display a copyright notice is not protected by
copyright and can be used freely. What do you think?



FALSE

For works created after March 1, 1989, a copyright notice is **optional** and does not affect the validity of copyright protection.

FALSE. For works created after March 1, 1989, a copyright notice is optional and does not affect the validity of copyright protection.

This means that if you see a cool image online and it doesn't have a copyright notice (i.e. the copyright symbol), it does not automatically mean that the work is free for your use.



True or False?

A work must be registered with the U.S. Copyright Office in order to receive copyright protection.

Next up: True or false? A work must be registered with the U.S. Copyright Office in order to receive copyright protection.



FALSE

Formal registration of a work is **not** required.

FALSE. Formal registration is not required to receive copyright protection.

It could help you in a legal proceeding to have your work registered with the Copyright Office, but it is not necessary. In order to register a work for copyright, you fill out a form, pay a fee, and submit a certain amount of copies of your work. No lawyers or any other specialists are required.

So, how is a work copyrighted?

Copyright exists from the moment a work is created.



So, how is a work copyrighted? It's simpler than you may realize. A copyright exists from the moment a work is created.

How long does copyright last?



- It can be very complicated.
- One Simple Rule: In the U.S., as of 2019, works published before 1924 are in the public domain.
- Works created on or after Jan. 1, 1978 have copyright protection for the life of the author plus 70 years



The rules about how long a copyright lasts can get complicated, but the simple rule to remember is that in the United States, works published before 1924 are in the public domain. Think super old things like Shakespeare plays. If something is in the public domain, you don't need permission before using it. Unless the law is changed again, in 2020, all works published in the U.S. before 1925 will be in the public domain. In 2021, works published before 1926 will enter the public domain, and so on.

For works created on or after January 1, 1978, the copyright protection lasts for the life of the author plus 70 years.

(Note: In between 1923 and 1978 can get complicated and it's not important to focus on, but if someone asks, copyright for a work created but not published before 1978 can also last for the life of the author plus 70 years. Copyright for a work published after 1923 but before 1978 lasts for 95 years from the date of publication.)



Who owns a copyright?

Generally, the creator of the work owns the copyright (including student journalists who work at campus publications.)

Next, we'll discuss who owns a copyright. As you can imagine, this is an important question to answer for student journalists.

Generally, the creator of the work owns the copyright, including student journalists who work at campus publications.

“Work for hire” exception

- Employer owns the works created by an employee when there is a formal employer/employee relationship
- Most student journalists are likely **independent contractors** who own the works they create
 - Generally, employer can only use your work once and you control all subsequent uses



There is an exception to this rule, however. Under the “work for hire” doctrine, an employer owns the copyright of works created by his or her employees while working in the scope of their employment. This grants your employer the right to do pretty much whatever it wants with your work and prohibits you from doing the same.

Most student journalists are not going to be considered employees of the school, so the work for hire doctrine would not apply. Rather, most student journalists fall under the category of independent contractors who own the works they create. In most student media programs, students volunteer their time and their services. Even when you are being paid as a student journalist, you certainly aren't being paid enough to compensate you for the amount of hours you actually work. Additionally, some students are paid on a per photo or story basis, much like a freelancer, which would suggest treatment as an independent contractor.

Payments to a student in the form of a nominal stipend, tuition credits or at a level that is below minimum wage would not

generally constitute traditional employee compensation
Either way, it's important to know your classification when you start
getting requests from former students/staff members to remove
certain articles from the internet. This could happen years after a
story has run.

Copyright agreement

- Every staff member and contributor should sign
- Student retains copyright to their work
- Student grants limited license to the publication to use their work



It is important that every student publication have a copyright agreement that each staff member or contributor signs before their work is published in the newspaper, yearbook, magazine, or other school publication. On the SPLC website, we have a sample agreement that states that the student retains the copyright to their work, but is granting a limited license to the student media publication to use their work. This can be helpful especially in situations like a yearbook where you want to use a former staff member's photo, but the person has already graduated. You don't have to try and track them down this way.



True or False?

Adding a credit line on a copyrighted work is enough to avoid copyright problems.



FALSE

The law requires **actual permission** from a copyright owner, **not just attribution**.

Without actual, explicit permission from a copyright owner, giving credit to the person who took the photo or created the work is not going to protect you from a claim of copyright infringement.

How do I get permission to use a copyrighted work?

- **Locate the copyright holder**
 - Copyright notice will tell you or contact Copyright Office in DC
- **Submit a written request**
 - Your contact information
 - Expected date of publication
 - Number of copies
 - Publication price (if any)
 - Non-profit status (if applicable)
 - Description of intended use
 - Response deadline



So let's say you've found a photo you want to use in your magazine and there's no question it is copyrighted and you don't own the copyright to it. Then you'll need to get permission to use the photo.

If you think it will be necessary to obtain a copyright to use a work, start early. That means you need to start planning before the week of your publication deadline. To find the copyright holder, either look at the copyright notice (for example, copyright 2015 Time, Inc.), or contact the Copyright Office in DC. Search the registration records yourself on the website, or pay them to do the search for you.

You can definitely make an initial phone call, but most copyright holders require a written request, which should include your name and contact info, the name and expected date of publication, the number of copies you intend to produce and the price you'll charge (if you're charging). If, in the case of most of you, you are a nonprofit student publication, be sure to make that clear. You'll also need to include a precise description of what you want to use. You can even include a sketch of your plans.

Using Online Photos

At the SPLC we receive a great number of questions about using photos that you find online. An area that students find themselves getting into big trouble about.



True or False?

I can take a photo of a celebrity from Google and photoshop my head onto the celebrity's body and print it in my school publication.



FALSE

Altering a work you are using without permission **does not** eliminate the copyright issue.

In fact, you may be in more trouble because you altered it.

General Copyright Rule

- If you didn't create the work and/or own the copyright to it, you **must** get permission to use it
- Even if you find it via Google!

It's worth repeating: if you did not create the work and haven't otherwise obtained the copyright to it, you need permission to use it. Even if you find it online. Even if you find it through a google image search. If you find photos through a google image search, these search results do NOT transfer any copyrights to you. Google is not a stock photo agency and you cannot purchase the rights of these photos unless you ask the photographer for permission or purchase the photo from the stock photography agency that holds the photo.

Technology can and will work against you

- Digital watermarks embedded within an image
- Auto generated copyright infringement notices
 - DO NOT ignore
 - Remove the infringing work
 - Do your research
 - Check statute of limitations
 - Respond in writing
 - Play the student media card



The internet both simplifies and complicates things for us. If you feel tempted to just use a photo you grab from Google without permission, be aware that tracking the use of digital photos, music, videos, etc. is routine.

Digital watermarks are secret tracking codes that are hidden or embedded within an image and are not visible to the naked eye. Then, computer systems search the internet for infringing uses of copyrighted images and then automatically generate and send a letter to the whoever manages the website. While this kind of letter does not mean you're getting sued, you certainly do not want to ignore it.

First step is to remove the infringing material. This could be as simple as removing a photo that ran with an article. While this may not always get you out of hot water, it at least shows good faith on your part. Next, you need to research the organization or person making the claim and verify that they are in fact the legitimate owner of the copyrighted work. If all seems well on that front, it's good to know that the timeframe someone has to sue for copyright infringement is 3 years after they become aware of the infringement. If more than 3 years have passed, a lawsuit can no longer be brought.

You can always call, but it's a good idea to respond in writing and ask for more information. It is during this process that you can also let the organization know that your publication is a non-profit, student run publication. Many times, if you're dealing with someone reasonable, they will at least lower the price they are asking you pay.

Know that the higher profile photo you're using, the more attention it's likely to receive. Photos of celebrities, for instance.

Purchasing Copyright Licenses

shutterstock®

gettyimages®



St Adobe Stock

iStock.
by Getty Images

Instead of risking all that, here are some examples of places you can purchase stock photos or images. AP, istock, getty images.

You want high quality pictures from prestigious events like the Oscars or the Olympics, these are the places you turn.

Most online stock agencies sell Royalty Free licenses, that is, a license with a number of preset rights for a one-time fee. Royalty Free images commonly have no time limitation for use and can be used commercially, but they are open for anyone to buy and use. That's why they're cheap: they make up for individual price with volume of sales.

Getty Images traditionally offers most of their collections under Rights Managed licenses, which are tailored to your intended use, adding all necessary rights individually, and thus increasing price accordingly. Rights Managed gives you among other things the option to get exclusive usage of an image for a certain period of time, for example. This is why some Getty Images' files can potentially cost up to thousands of dollars to use.

Alternative Copyright Licenses



There are a growing number of websites that make photos, videos, music, and other creative works free for download and republication. It is important that you always follow the terms of use of the website, including the terms of any Creative Commons license. Creative Commons is a big one that students use, and it's great, but be sure to read the terms of use of their works. Many times it just requires you give attribution to the person who took the photo.



You are free to:

Share — copy and redistribute the material in any medium or format

The licensor cannot revoke these freedoms as long as you follow the license terms.

Under the following terms:



Attribution — You must give [appropriate credit](#), provide a link to the license, and [indicate if changes were made](#). You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.



NonCommercial — You may not use the material for [commercial purposes](#).



NoDerivatives — If you [remix, transform, or build upon](#) the material, you may not distribute the modified material.

This is an example of a notice you might see with a photo on Creative Commons. Some require that you note if you've altered the work, even by just cropping a photo or taking an excerpt of something. Normally doesn't apply to more trivial things like changing the size of the font.

Share-alike is a [copyright licensing](#) term to describe works or licences that allow copies or adaptations of the work to be published but only if you do so under the same or similar licence as the original.

Some require that you cannot use the photo for commercial use. These are just examples, but the point is it is important to pay attention when you use these sites, and you can always contact the SPLC if you have questions about the terms.



Social Media



You know that little box everyone checks when signing up to use a social media platform, but no one really reads? That's a contract. When you click agree and use the service, you're (for the most part) creating a legally binding agreement. The terms and conditions that accompany a social media site are the ground rules for your relationship with that site. They tell you who can use the site, what can and can't be posted, etc.

Instagram

- User retains right to photos and content
- Grants Instagram all the rights of an original owner of the content
 - Can even relicense your stuff without your permission
- Users can violate copyright law on their own account by posting material they do not own the copyright to



We won't go through all of the social media sites, but we can look at Instagram as an example. Instagram Terms of Service state that you retain the right to your photos and content, but also includes language that basically says by using Instagram, you're giving them all the rights of an original owner of the content, including to reproduce, distribute, modify, etc. the content. They can re-license it without your permission, which means granting a third party the right to do all the things listed above.

Something else students sometimes forget about is the fact that you can violate copyright law on your own account by posting material that is not yours. In that nifty little terms of service agreement, you've agreed that you either own all the content you are posting or have sought permission to post it. Just because someone has posted content on their social media profile does not mean that they waive copyright protection.

An interesting example and something to keep in mind is that just because you are in a photo does not mean you own the copyright

to it. A few years ago (2017) Khloe Kardashian posted a photo of herself with one of her sisters to her Instagram account which has millions of followers. The photo was captured by a photographer at Xposure Photos who had granted an exclusive license to the Daily Mail. As a result, the photo agency sued Khloe for more than \$175,000. The lawsuit was later dismissed.

General Copyright Rule

- If you didn't create the work and/or own the copyright to it, you **must** get permission to use it
- Except ...

There is one important exception to our general copyright rule, and that'll be our last area of discussion for today.

Fair Use

What is Fair Use?

- An exception to our general copyright rule
- Using a limited amount of a copyright-protected work for news, educational, or informational purposes without consent



Fair use is an exception to our general copyright rule. In other words, there are certain instances where you are able to use a portion of a copyrighted work without permission.

Fair use can be a little tricky, but there are four factors that the courts look to when determining whether something would fall into this category. We'll explore those next.

Four Factors of Fair Use

- Purpose/Character of the Use
- Nature of the copyrighted work
- How much of the original work is used
- The effect of the use on the potential market value of the original work



These are the four factors courts take into consideration when determining whether the use of a work qualifies as fair use: the purpose or character of the use, the nature of the copyrighted work, how much of the original work is used, and the effect of the use on the potential market value of the original work. I'll talk about each of these in a little more depth in the next few slides.

Purpose/Character of the Use

- Non-commercial uses for purposes such as news reporting, teaching, criticism, or commentary are more likely to be considered fair use
- Transforms the work's purpose, character



This first factor is usually the most important, and it basically asks: Is the way you're using the work transformative? Does it change the work's purpose, character, meaning or message? The more the way you are using the work transforms the work from its original context by adding new value, the more likely courts are to find that your use falls under the fair use exception.

Non-commercial uses for purposes like news reporting, teaching, criticism or commentary are more likely to be fair.

Examples: writing book or movie reviews

A word of caution about relying on the news reporting rationale for your fair use: courts generally only find fair use where the work itself is newsworthy and using the work is necessary to tell the story

Nature of the Copyrighted Work

- Uses of works containing mostly factual material like maps or biographies are more likely to be fair than uses of highly creative and original works like novels and cartoons



As we discussed before, facts are not protected by copyright, so using works that mainly contain facts, like maps or biographies, is more likely to be considered a fair use.

Amount of the original work used

- No more of the work than what is necessary may be used fairly
- Quantitative (how many words of a 200,000 word book are reproduced?)
- Qualitative (using the “core” of a work – no matter how small – is less likely to be a fair use)



It's a common misconception that you can safely use 30 seconds of a song/movie, or 250 words of text without violating copyright law. This is false. There is no set portion of a work that you can use that will always count as a fair use. In general, it's best to remember that the less you use of a work, the better.

Effect on the market for the original work

Would consumers be willing to buy the new use as a substitute for the original work?



This factor basically just asks if consumers would be willing to buy the new use as a substitute for the original work. Or, put another way, will your use of the work mean that others do not have to purchase a copy of the work? There are a few things you can do to minimize the effect of a use on the market value of the original work. For example, using an image at a significantly smaller size and lower resolution or reproducing it in black and white instead of full color are a few ways to make it less likely that a consumer would look upon your use as a substitute for the original.

This, as well as the other three factors considered in fair use analyses are pretty fact-specific and thus it's hard to set out any hard and fast rules.

Common Fair Use Examples

Superman flies onto the big screen, again

You may have already had your share of movies with the man in blue, but he's back, and critics are raving about the new look and attitude.

In the film, After a long visit to the lost remains of the planet Krypton, the Man of Steel returns to earth to become the peoples savior once again and reclaim the love of Lois Lane, according to [IMDb.com](#), an online



Source: supermanreturns.warnerbros.com

Peanuts' creator Charles Schulz dies

Charles Monroe Schulz, an iconic American cartoonist best known worldwide for his Peanuts comic strip, died at age 77 on Feb. 12, 2000. He was born in Minneapolis, Minn., in 1922, where he began his cartoon career. After returning from service in World War II, Schulz sold his comic panel "Li'l Folks" to the St. Paul Pioneer Press in 1947. By 1950, he had syndicated what became the Peanuts strip across the nation.



Source: www.snoopy.com

Let's talk about some common fair use examples. Here on the screen you'll see two articles with accompanying photos. The first is a review of a new Superman movie. The review ran with a still shot from the movie. Variations of this question are asked fairly frequently. Sometimes, the question is whether a student can include a thumbnail image of an album or a book they are reviewing in the student newspaper.

Generally any time you are writing a review of something, be it a play, a movie, a book, an album, etc., running a photo of the cover of the work or a still shot from the movie is going to count as fair use. Let's use our four-part test to see why: the purpose of the use is to aid in criticism or commentary of the work, while allowing readers to quickly identify what work is being discussed. The nature of these covers is artistic and the amount of the artwork taken would be the whole thing, so those factors don't really help us. But the last factor, effect on the market for the original, weighs hugely in favor of fair use. Running a photo of a cover of a book or a still shot from a movie is not going to encourage people to buy a substitute for the original work. In fact, if you're writing a good review, it could encourage people to purchase or consume the original work.

Note that in our movie review example, however, fair use would NOT allow you to use of a candid photo taken of one of the movie stars and published in a celebrity magazine. The photo has no direct connection with the movie itself, which is the focus of the review.

The second article is a single frame of the Charlie Brown comic that ran with an article

about the death of Charles Schulz, the creator of Peanuts. Because here, they are just using a single frame of the comic strip to accompany a news article about the death of that comic's creator, fair use would probably allow for this limited use.

Common Fair Use Examples: Right or Wrong?

- A professor makes copies of one article from a periodical for distribution to the class
- Using a popular song as background music for the intro on your school TV station



This first example would be a permissible fair use because the professor is only using part of the work and is using it for an educational purpose

The second example wouldn't count as fair use, and it's a question we get a lot. Unless you are using a short clip of the song for a review of the CD from which it comes, using the song solely as background music would not qualify as fair use. You aren't using it in a transformative way and are using a significant portion of it.

Copyright and Parody

- Parody of original must be obvious
- Creativity counts
- Only use as much of the original work as necessary
- Minimal impact on market value of original



Parody can be considered a fair use, when done correctly. The key is that the parody must mimic the original to make its point. Some general examples are changing some of the words of a Taylor Swift song to make fun of members of your senior class and printing them in the school yearbook. Even if it ends up being funny, what you've done hasn't made fun of the original work itself. On the other hand, if you change a small part of the song's lyrics to make fun of Taylor Swift herself, it could likely be considered a fair use. It's much more difficult to prove fair use if you're just borrowing from a popular work as a gimmick for attacking something other than the original work itself.

In order to safely be considered a parody, the parody must be painfully obvious to the audience. The audience must reasonably perceive that the use is a criticism or a commentary of the original. Some school papers will print their April Fools' editions upside down, or something like that, to make it immediately obvious to the reader that something is different about this edition of the paper.

Additionally, if you want to parody an original work, you must not use more of the original work than is necessary to conjure up thoughts of the original in the viewer's mind.

Lastly, the parody must not directly threaten the market value of the original work. If the public will purchase the parody instead of buying the original, then that's going to weigh heavily against considering the use as fair.

Parody Real World Example

The Washington Post

May 1, 2019

Edition: U.S. & World | Regional

UNPRESIDENTED

ENDING CRISIS, TRUMP HASTILY DEPARTS WHITE HOUSE

On May 1, barely six months after the midterm elections, Donald Trump appears to have abandoned the White House and abdicated his role as president. He issued no formal statement, though four White House aides — who spoke on the condition of anonymity — claim they found a napkin on the president's desk in the Oval Office on the evening of April 30, scrawled in red ink with the following message: "Blame Crooked Hillary & Hflor & the Fake News Media."

By Lisa Chung • 2 hours ago

"Finally!" say women
From [#MeToo to 'You're Fired'](#)



Former President Trump slips into a private car in the wee hours of the morning.

Celebrations break out worldwide as Trump era ends

Worldwide, impromptu street parties popped up in major cities and small towns as people realized the American president had fled. As news spread of what appeared to be the first U.S. presidential resignation since Richard Nixon, crowds from Buenos Aires to Cape Town waved American flags, played American music, and congratulated the United States.

By Sara Gabriel Ramos

Example: Fake Washington Posts handed out on the streets of D.C. at the beginning of 2019 claimed that the president was resigning and had done so by writing a resignation message on a napkin in the Oval Office. The extra large headline read “UNPRESIDENTED.” The fictional timeline of the paper credits protests like the Women’s March with Trump’s abdication, and includes a link to an action guide for people who want to pursue progressive causes. The paper was handed out in January but the edition was dated May 1, 2019, which should have been one of the first clues that something was off. Additionally, the tagline read “Democracy awakens in action” rather than the traditional “Democracy dies in darkness” tagline that normally adorns the front page. The pranksters also created a fake website designed to look like the Post’s website, which is the screenshot you’re viewing here.

The Post legal department immediately responded, calling it trademark infringement and raised copyright threats.
<https://www.eff.org/document/cease-and-desist-letter-re-yes-men>

Their cease and desist letter to the group responsible for creating

the fake paper and website points out that there is a substantial likelihood of confusion between the fake copies and the actual Post, including the fact that the masthead is identical, neither the paper nor the website state that the edition is fake or a parody or satire, and the fake online publication included links to content on the actual Washington Post website.

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Of course, we haven't covered everything and you may have more questions.

As noted earlier, the SPLC Web site is packed full of resources and on student press law issues and you can talk one-on-one with their lawyers using their free legal hotline. On behalf of the Student Press Law Center, I thank you for taking the time to watch this presentation. We hope you have found it helpful.

Enjoy your time as a student journalist —say what you need to say — and best wishes.

This copyright presentation was originally written and produced by the Student Press Law Center in 2006 thanks to a grant from the Newspaper Association of America Foundation (now the News Media Alliance.) The presentation has been updated several times over the years.

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