

# A Framework for Analyzing any U.S. Copyright Problem

One of the most difficult issues for educators, when faced with a copyright problem, is simply knowing where to begin. Which parts of the legal rules and doctrines apply to a specific problem? To handle this uncertainty, we suggest working through five questions. Although they are simple questions, they will take a fair amount of thought and investigation about the specific problem.

It is best to work through the five questions in order. By following this process, you will be better prepared to identify which of the parts of copyright law apply to the specific problem or fact pattern that you need to address.

## The five questions that form this framework for copyright analysis are:

### 1. Is the work protected by copyright?

- a. Is the work I want to use protected by copyright, or is it in the public domain?
  - i. [Digital Copyright Slider](#) - This tool will help you determine if a work is in the public domain.
- b. If I wrote it, do I still own copyright?
  - i. Did I transfer my rights for my intended use to the publisher?
  - ii. Am I a co-writer and if so, do I have a [joint copyright](#)?

### 2. Is there a license that covers my use?

- a. Is there a Creative Commons license attached to the work? If so,
  - i. Can I comply with the terms of the license?
  - ii. Can I find another useful work that is Creative Commons licensed?  
[Search Creative Commons](#) for works with a CC License.
- b. If affiliated with an educational institution, is there a license that governs how the copyrighted material I'm accessing through my library can be used?
  - i. If so, can I comply with the license terms? (If you are uncertain, your librarian should be able to help you)

**3. Is there a specific exemption in copyright law that covers my use?**

- a. Is my intended use covered by a specific exemption to the exclusive rights in the copyright law, such as the ones for libraries or for classroom performances and displays?
  - i. Helpful Links and Tools:  
Association of Research Libraries: [Know Your Copy Rights](#)  
[A Guide to Exceptions for Instructors in U.S. Copyright Law](#)  
U.S. Copyright Office: [Copyright Law of the United States of America and Related Laws Contained in Title 17 of the United States Code](#)

**4. Is my use covered by fair use?**

- a. The Four factors are:
  - i. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
  - ii. the nature of the copyrighted work;
  - iii. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
  - iv. the effect of the use upon the potential market for or value of the copyrighted work. b. Questions for transformative fair use under factor one are: i. Does the copyrighted material help me make my new point? ii. Will it help my readers or viewers get my point? iii. Have I used no more than is needed to make my point? (Is it “just right”?)

**5. Do I need permission from the copyright owner for my use?**

- a. If so, first locate the copyright owner and fully explain your intended use in your permission request.
  - i. Requesting Permission: <https://www.k-state.edu/copyright/basics/copyright-permissions/>  
Visit K-State's page on how to request permission for a copyrighted work.

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