

Boise State University

ScholarWorks

Scholarly Communications and Data
Management Tip Sheets

Scholarly Communications and Data
Management

2022

Scholarly Communications & Data Management Tip Sheet: Copyright & Fair Use

Elisabeth Shook
Albertsons Library

Ellie Dworak
Boise State University

Albertsons Library Research Data Management Team

COPYRIGHT & FAIR USE

Copyright was designed “to promote the progress of sciences and useful arts, by securing for limited times to authors and inventors exclusive rights to their respective writings and discoveries” ([The Constitution of the United States, Article I, Section 8, Clause 8](#)). Copyright is intended to be a balanced system between the rights of the copyright holder and the rights of the public. This balance allows people to receive an initial gain from their efforts but also enables the development of new creations.

Requirements for Copyright in the United States

- Copyright in the United States protects "original works of authorship fixed in any tangible medium of expression."
- Works covered by copyright include literary works; musical works; dramatic works; pantomimes & choreographic works; pictorial, graphic, & sculptural works; motion pictures and other audiovisual works; sound recordings; & architectural works.
- Copyright does not protect facts, ideas, or processes.
- US Copyright Law no longer requires authors to register their copyright in order to be protected. The moment an original work is created in a fixed, tangible format, the work is protected for the life of the author plus 70 years.

- 17 U.S. Code § 102 - [Subject matter of copyright: In general](#).

The information provided on this tip sheet does not, and is not intended to, constitute legal advice

Fair use is one of the exceptions in copyright which allows use of copyrighted materials without obtaining permission as long as the use can be considered fair.

- [Purdue University Copyright Office](#)

A determination of fair use is based on a four-factor analysis. Each factor is given equal weight.

- | | | | |
|----------|--|----------|--|
| 1 | The purpose and character of the use.
Non-commercial and educational purposes favor fair use, while commercial use is a point in favor of requiring permission. | 3 | The nature of the copyrighted work.
Unpublished works and works of fiction are given more protection than are unpublished or factual works. |
| 2 | The amount & character of the use.
Although often small portions of a work may be used without permission, portions at the heart of a work may require permission. | 4 | Market effect. Uses that do not impact the potential value of a work favor fair use. Works that are available for licensing often require permission. |

For more information, visit: <https://guides.boisestate.edu/copyright>