# Copyright Manual of the College of Southern Idaho

"There are multiple expressions to use when someone is going about something the wrong way. 'Making a mistake' is one way. 'Screwing up' is another way, although it is somewhat rude. 'Attempting to rescue Lemony Snicket by writing letters to a congressperson instead of digging an escape tunnel' is another way, although it is oddly specific."
- *A Series of Unfortunate Events*

Infringing on copyright is a grave mistake, and one that a person can make even if they are attempting to follow the law closely. One must know the details of copyright law if one is going to duplicate any copyrighted work, whether with or without permission.

This manual focuses on copyright in the archives and library at the College of Southern Idaho, but it can also help faculty and staff members in the college regarding duplication of textbooks and other materials. Any questions regarding copyright should be directed to the Designated Copyright Agent of the College. Alternatively, the Library staff can help with these questions.

The concept of copyright is that the creator, custodian, or other owner of this right (or the collected rights under the umbrella of copyright) holds the title to the intellectual property of a particular work. Intellectual property is a creation that was the result of the work of the mind of one or more people. Intellectual properties express ideas through literary, artistic, oral, and other media, including:

- Literary works
- Musical works
- Dramatic works
- Pictorial, graphic, and sculptural works,
- Motion pictures
- Audiovisual works
- Sound recordings
- Architectural works
- Compilations and derivative works

The ownership of this property means that the copyright owner has exclusive rights to control duplications, alterations, performance, display, and dissemination of a particular work, expression, manifestation, and item. Librarians and archivists both work to ensure the widest possible access to all types of work (copyrighted and non-copyrighted) while recognizing that access may be justifiably limited in certain instances.

While it may seem that copyright protects virtually everything in our world, there are some products that are not protected under copyright:

- Ideas
- Processes
- Devices
- Blank books, forms, charts, calendars, etc.
- Laws and judicial opinions
- Titles of works
- Facts and data
- Recipes
- Works that have not been created by humans (including ChatGPT, for the time being)
- Works of federal (and some state) government employees
- Public domain materials

## So What?

You may be asking who would care if you violate copyright. After all, no one is actively searching for copyright infringement, correct? First of all, that assumption is becoming increasingly mistaken. Institutions and corporations are creating AI and other tools to automatically sense copyright infringement on the Internet. With the proliferation of online courses, copyright infringement by these courses could be easily detected. Furthermore, physical courses can be punished for violating copyright of all types of materials. An excellent example of this is *Dynastudy v. Houston.* In this case, Dynastudy, an educational publishing company, had sued Houston Independent School District (HISD) for copyright infringement. The Houston district, with a sense of impunity, had taken educational materials from Dynastudy, photocopied and digitally scanned them, and disseminated the content to its schools without any permissions or licenses from Dynastudy.

The court ruled in favor of Dynastudy, indicating that HISD had indeed violated copyright laws by duplicating and distributing copyrighted materials without prior authorization from the copyright holder. HISD was ordered to pay significant damages (read: millions of dollars) as a result. Other cases include *Princeton Univ. Press v. Mich. Document Servs., Inc. a*nd *Basic Books, Inc. V. Kinko's Graphics Corp..*

On the other hand, some lawsuits have resulted in findings for the defendant. The most prevailing of these rulings were those in the cases of *Cambridge University Press et al v. Patton et al. a*nd *Authors Guild, Inc, v. Hathitrust.* In both of these cases, courts found that Georgia State University and Hathitrust were using copyrighted works in fair use. *Patton et al.* Were providing electronic versions of materials in their reserves, while Hathitrust was providing access to full-text versions of books for the sake of accessibility. They were also allowing researchers to analyze the text of these works in order to further their text-mining projects.

In the context of cases for both plaintiffs and defendants, especially in light of recent artificial intelligence developments, faculty, staff and students should develop workflows, research patterns, and skill sets that are conscious of copyright limitations but that also acknowledge the freedoms provided by the fair use doctrine and the TEACH Act.

## Digital Millennium Copyright Act

In 1998, this act was passed to protect copyright holders from copyright infringements committed using technology, including unauthorized reproduction and distribution of the original work outside of fair use. This is the act that the College of Southern Idaho must abide by. Thus, copying in the library and the archives must follow this law as well. There are three main sections of the DMCA:

### Safe Harbors and the Notice-and-Takedown System

Section 512 shields online service providers from monetary liability and limits other forms of liability for copyright infringement—referred to as safe harbors—in exchange for cooperating with copyright owners to expeditiously remove infringing content if the online service providers meet certain conditions. CSI functions as one of these providers and therefore has a Designated Copyright Agent, which is Reed Hepler (rhepler@csi.edu). Individual copyright violators do not have the same protection as organizations that have a registered copyright agent. Individual infringers can be fined and even imprisoned.

### Anticircumvention

Section 1201 prohibits two types of activities. First, it prohibits circumventing technological protection measures (or TPMs) used by copyright owners to control access to their works. For example, the statute makes it unlawful to bypass a password system used to prevent unauthorized access to a streaming service. Second, it prohibits manufacturing, importing, offering to the public, providing, or otherwise trafficking in certain circumvention technologies, products, services, devices, or components.

As of 2018 (the last Congress session regarding the DMCA), the only exception to the circumvention statute regarding education was that users may circumvent in order to make short portions of the motion picture for educational purposes:

1. by college and university faculty and students or K-12 educators and students for the purpose of criticism, comment, teaching, or scholarship;

2. by faculty of MOOCs offered by accredited nonprofit educational institutions (must also meet TEACH Act requirements) in film studies or other courses requiring close analysis of film and media excerpts; or

3. by educators and participants in nonprofit digital and media literacy programs offered by libraries, museums, and other nonprofit entities with an educational mission, in the course of

face-to-face instructional activities (but limited to circumvention using screen-capture technology).

### Copyright Management Information Protection

Section 1202 makes it unlawful to provide or distribute false copyright management information (CMI) with the intent to induce or conceal infringement. CMI is certain information, including the title, name of the author and copyright owner, and terms for use of the work, conveyed in connection with copies, phonorecords, performances, or displays of a work.

Information about the law can be found on this page.

The Copyright Alternative in Small-Claims Enforcement of Act of 2020 established the Copyright Claims Board that can hear claims and counterclaims regarding copyright infringement.

## Copyright in Education

United States copyright law provides important exceptions to the rights of copyright holders that are specifically aimed at nonprofit educational institutions and libraries. Three provisions of the copyright statute are of particular importance to teachers and researchers:

- Teachers and students have certain rights to publicly display and perform copyrighted works in the classroom (Section 110 of U.S. Copyright Law).
- Libraries and archives have special exemptions for the reproduction of copyrighted works in some circumstances (Section 108 of US Copyright Law).
- The "fair use" doctrine allows limited copying of copyrighted works without the permission of the owner for certain purposes, including teaching and research (Section 107 of US Copyright Law).

| **Multiple copies for classroom use** | |
|---|---|
| Multiple print or digital copies of articles, book chapters, or other works may be made for classroom use or discussion provided that: | There is a clear connection between the work being copied and the instructor's pedagogical purpose |
| | The amount copied is tailored to include only what is appropriate for the instructor's specific educational goals |
| | The access to works distributed online is provided only for the duration of the course for which they are provided, and limited to students enrolled in a course and other |

| | |
|---|---|
| | appropriate individuals (e.g. teaching assistants for the course) |
| | Each copy includes full attribution in a form satisfactory to scholars in that field |
| **Single copying for teachers** | |
| A single copy generally may be made of any of the following for teaching purposes: | A chapter from a book |
| | An article from a periodical or newspaper |
| | A short story, short essay or short poem, whether or not from a collective work |
| | A chart, graph, diagram, cartoon, or picture from a book, periodical, or newspaper |
| **Some examples of activities that courts have regarded as fair use** | |
| Quotation of excerpts in a review for purposes of illustration, criticism or comment | |
| Quotation of short passages in a scholarly or technical work, for illustration or clarification | |
| Parody of the content of the work | |
| A summary of an article, with brief quotations | |
| Reproduction of a small part of a work by a teacher or student to illustrate a lesson | |
| Reproduction of a legislative report or judicial proceeding | |

This section was taken from the Fair Use for Teaching and Research page of the University of Carolina Copyright page. The guidance on the UC Copyright website is available under a Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0) license.

## Fair Use

Many of us have heard the term “fair use” or “fair use doctrine” when hearing justifications of using copyrighted works. Some courts either support these arguments or oppose them, and violators are punished with heavy fines. In order to prevent copyright infringement, you must fully understand the fair use doctrine. This concept encourages reproduction and other uses of copyright works without permission from the copyright owners in order to create non-commercial “transformative” works. These purposes include criticizing them, reporting in the news, education, scholarship, and academic research. In some cases, personal research can also be construed as an acceptable fair use justification.

Education has been the most frequent and noticeable justification for fair use arguments. Faculty members at multiple college have been found guilty of copying whole chapters and books and giving them out to students in “course packs.” In order for use of a copyrighted item to fall under an acceptable fair use defense, the user must consider four factors and adjust their use accordingly:

| Factors to consider: | How this affects use: |
|---|---|
| The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes | Uses in nonprofit educational institutions are more likely to be fair use than works used for commercial purposes, but not all educational uses are fair use |
| The nature of the copyrighted work. | Reproducing a factual work is more likely to be fair use than a creative, artistic work such as a musical composition. Also, using an unpublished work would probably not be considered justifiable fair use. |
| The amount and significance of the portion used in relation to the entire work | Reproducing smaller portions of a work is more likely to be fair use than larger portions |

| | |
|---|---|
| The effect of the use upon the potential market for or value of the copyrighted work | Uses which have no or little market impact on the copyrighted work are more likely to be fair than those that interfere with potential markets |

This table was taken from the Fair Use for Teaching and Research page of the University of California Copyright page. The guidance on the UC Copyright website is available under a Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0) license.

In order to assess these factors in your use plan, ask these questions: Are you planning on using the work in a different way, or for a different purpose, than the original creator? (In copyright terms, is your use "transformative"?) Are you using an amount of that work that is narrowly tailored to your new purpose? Recent case law has shown that if your answer to both of these questions is "yes," then fair use is likely. To look at examples of copyright court cases, see Fair Use: What is Transformative?. If you would like to consider your use in detail before you go through with it, use this Fair Use Evaluator. Feel free to view recent court cases related to Fair Use arguments on fairuse.stanford.edu.

In regards to personal use as an acceptable fair use argument, the library only allows up to 25% percent of a copyrighted book or manuscript to be copied. Reproductions beyond that limit have potential to break copyright laws. Furthermore, reproductions of archival photographs, maps, and allowed copies of full books whose copyright is owned by CSI can only be used for personal, non-commercial, or educational endeavors unless explicitly allowed by an agreement between CSI and the user. Other uses of archival materials are in violation of copyright and will be fought.

Reproductions from the same book may only exist one at a time (you cannot copy a quarter of a book today and another quarter tomorrow and claim fair use). Additionally, you must restrict access to these materials to only your direct students and only those who are in your classroom for a specific semester. You may reuse the same reproduction (assuming you do not make others) for other semesters, but you must re-upload it to a new incarnation of the course for a distinct semester.

## TEACH Act

Related to the concept of Fair Use is the TEACH Act, or the Technology, Education and Copyright Harmonization Act of 2002. It is an alternative to fair use that is meant specifically to facilitate use of copyrighted works in online education. The following is an overview of this act provided by Louisiana State University in their TEACH Act Toolkit:

### TEACH Requirements (Overview)

**WHO:** Accredited Nonprofit Educational Institution or Governmental Body

**WHAT:** Performances of nondramatic literary work *or*
Performances of nondramatic musical works *or*
Performances of reasonable portions of any other work *or*
Display of any other work in an amount comparable to that typically displayed in a live classroom setting

**WHEN:** By, at the direction of, or under the actual supervision of an instructor as an integral part of a class session, as part of systematic mediated instructional activities, and directly related and of material assistance to the teaching content.

**HOW:** Transmission must be made solely for and reception limited to (as technologically feasible) students enrolled in the course

Downstream controls, i.e., technological measures that reasonably prevent retention in accessible form for greater than the class session (defined as the time the student logs in and logs out) and that prevent further dissemination in accessible form.

No interference with the copyright holder's technological measures that prevent such retention and dissemination

## CONVERSION FROM ANALOG TO DIGITAL

Allowed if there is no digital version available to the institution or the available digital version is technologically protected to prevent TEACH uses

## GENERAL INSTITUTIONAL REQUIREMENTS:

Promulgate copyright policies *and*

Provide accurate information about copyright *and*

Promote copyright compliance *and*

Provide notice to students that course materials may be copyrighted

In other words:

1. Avoid use of commercial works that are sold or licensed for purposes of digital distance education.

2. Avoid use of pirated works or works where you otherwise have reason to know the copy was not lawfully made.

3. Generally, limit use of works to an amount and duration comparable to what would be displayed or performed in a live physical classroom.

4. Supervise the digital performance or display, make it an integral part of a class session, and make it part of a systematic mediated instructional activity. In other words, interactively use

the copyrighted work as part of a class assignment or in your lecture in the distance education course. It should not be an entertainment add-on or passive background/optional reading.

5. Limit access to the works to students enrolled in the course. Use reasonable measures to prevent downstream copying by those students and to prevent the students from retaining the works for longer than a class session.

6. Notify the students that the works may be subject to copyright protection.

If you want to know if you can use a copyrighted material within TEACH specifications, use this checklist provided by Louisiana State University. Also see the answers to these frequently asked questions about copyrighted material use, also provided by Louisiana State University.

While many educators and other see the TEACH Act as the answer to their concerns and educational needs, it still does not meet all of the requirements. Furthermore, the number of requirements and precautions necessary to comply with the Act are significant deterrents and provide major disadvantages. Using this Act could potentially be more trouble than it is worth.

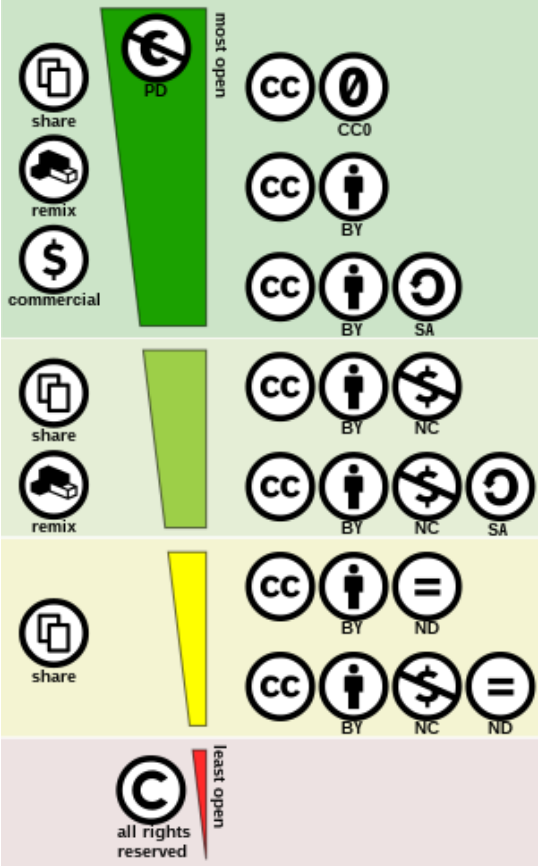
According to the Association of College and Research Libraries, educators who seek to use media under the TEACH Act should take advantage of copyright education and favor streaming a work rather than using downloads.

## Public Domain

What exactly is the public domain? Public domain materials are works that have either been released into the public domain or whose copyright has expired for a number of reasons. The most common reason in the United States for copyright expiration is that 95 years have passed since the creation of the work. For works created after 1989, copyright lasts for the life of the author plus 70 years or, for "works for hire," 120 years from creation. Some authors, however, automatically release their works into the public domain. These items will either have a Public Domain notice or a Creative Commons Zero notice on them in a conspicuous location. Again, if you have concerns about copyright, consult the Copyright Term and Public Domain Table created by Cornell University or this slider created by the American Library Association.

## Creative Commons and Open Access Materials

Some creators have released their works under a limited-copyright license called an open access license. The most common type of these are called the Creative Commons licenses. Under Open Access, users can have free and unrestricted access to information contained in a resource. However, their ability to reuse, modify, and commercialize these items may still be limited. There are six main types of Creative Commons licenses:




Creative commons license spectrum.svg was created by Shaddim and was licensed under a Creative Commons Attribution4.0 International license.

In the chart above, BY stands for the need for Attribution. NC stands for a Non-Commercial restriction. ND means that No Derivatives (copies or modifications, even conversion to another format) may be made. SA means that those who duplicate or share a material must Share-Alike, or share it under the same license. All of these licenses except for the CC0 license require attribution, and best practice is to share an attribution with these items as well. If you would like help creating your attribution, ask Reed or use this Attribution Builder created by the University of Washington.

This table, taken from The OER Starter Kit by Abbey Elder, displays the difference between open educational resources, materials provided by the library under normal copyright licenses, and open access-published materials.

| Material Type | Openly Licensed | Freely Available | Modifiable |
|---|---|---|---|
| Open educational resources | Yes | Yes | Yes |

| | | | |
|---|---|---|---|
| Free online resources under all rights reserved copyright | No | Yes | No |
| Materials available through the University Library | No | Yes | No |
| Open access articles and monographs | Yes | Yes | Maybe |

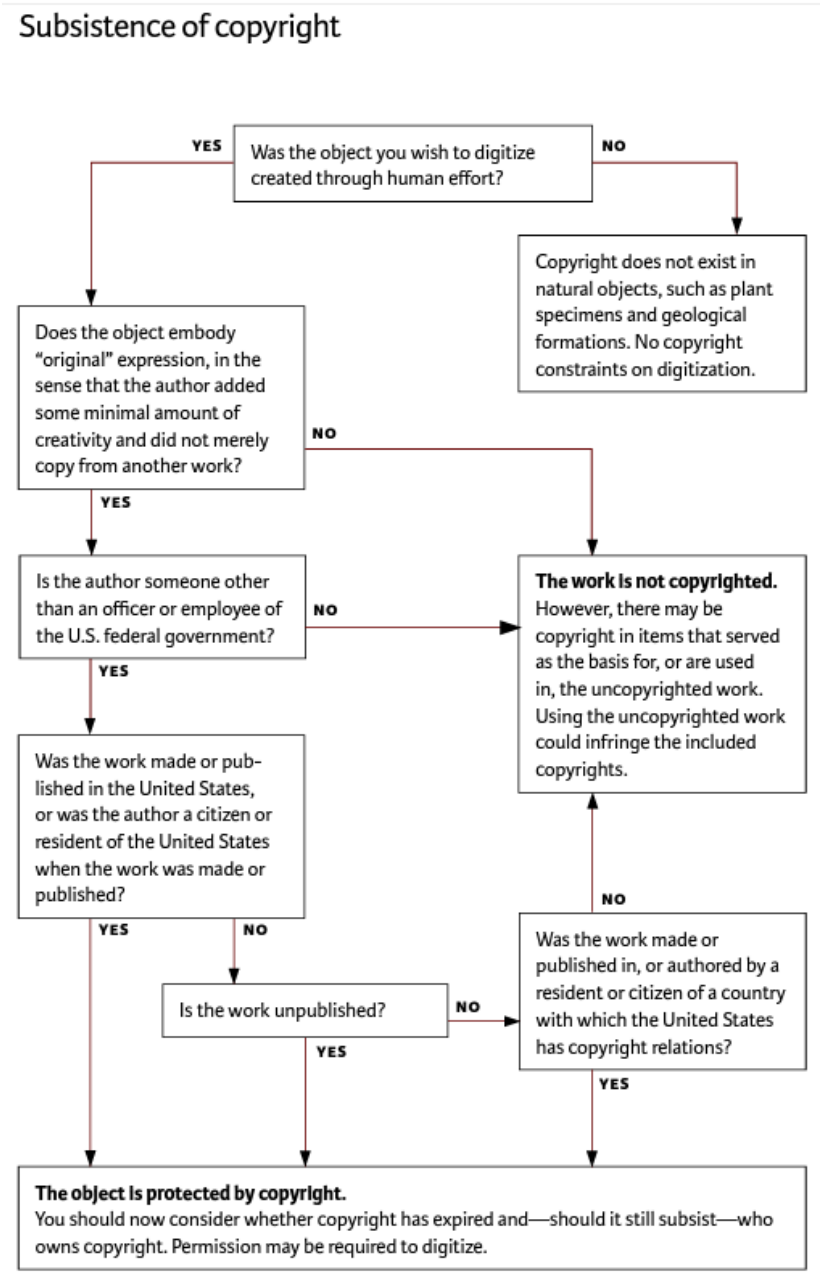
Licensed under https://creativecommons.org/licenses/by/4.0/.

## Copyright and Preservation by Libraries and Archives

Section 108 of the United States Copyright Code allows for duplications of a copyrighted work to be made in order to replace damaged or lost works or to preserve works so the information contained in them will not be lost. View this spinner created by the American Library Association to view the contexts in which duplications can be created. In cases in which the CSI Special Collections and Archives duplicates works copyrighted by others, which is extremely rare, it follows Section 108. Only the Archivist or the Library Director can approve duplication of archival materials copyrighted by creators other than CSI.

Copyright of the donations are always transferred in their entirety to the archives, or donations are not accepted. Acknowledgment of this transfer must be made in writing or it is not legal. Acknowledgment of transfer of the copyright of the metadata should also be made in writing. Archival policy protects the privacy of all people contained in archival materials, and so their rights should not need to be considered in donor agreements. Copyright includes the right to reproduce, display, reformat, license, and distribute an item. Some materials are in the public domain, which means that the archives has no control over the reproduction of the item, and neither does the donor. If you have concerns about copyright, consult the Copyright Term and Public Domain Table created by Cornell University. You should always assume a work is copyrighted until you know that they are not.

One of the most important works regarding Copyright and archives is *Copyright and Cultural Institutions* by Peter B. Hirtle, Emily Hudson, and Andrew T. Kenyon and published by Cornel University Library. While it is somewhat dated, as it was published in 2009, the principles discussed in the manual are beneficial to all archivists, not just those dealing with digital reproductions. Copyright knowledge prevents archivists from inadvertently allowing patrons to break copyright in multiple ways. This part of the Copyright Manual is a condensed version of the book, but sometimes detailed information and guidance is necessary. You can consult the book, which is free, if you need more detailed advice.




When digitizing, or allowing a patron to digitize, a work, there are some exceptions to the general rule that one must gain permission from the copyright owner to exercise any of their exclusive rights. Copyright does not apply when it has expired or the act is one of those exempted by the Copyright Act or a statutory license such as the TEACH and Section 108.

When copying a work that is in the public domain here in the United States, one should keep in mind that the work may not be in the public domain in other countries. Nowhere is this more apparent than on the IMSLP website, which has many "public domain" items that are only in the public domain in the European Union. Any users of that site should be careful to make sure that it is in the public domain in their jurisdiction area. Additionally, although these guidelines are primarily about copyright, there are other laws that can impinge on digitization efforts. Chief among these are rights of privacy, publicity, and trademark.

The right of publicity could be a nightmare for cultural institutions: a right that varies from state to state, with no central registry of rights and incredibly long periods of compliance. Fortunately there is an important limitation on the right of publicity: it is primarily an economic right, restricted to the commercial use of an individual's persona. It is intended to prevent third parties from exploiting for financial gain an individual's image or personality. Publicity rights, therefore, should not apply to noncommercial, educational use of a person's image. This is an area that is developing and changing rapidly, however, and should be monitored. Commercial

use of the likeness of others is a different matter, and would require the institution to consult with an attorney specializing in the right of publicity.

**TABLE 6.1**

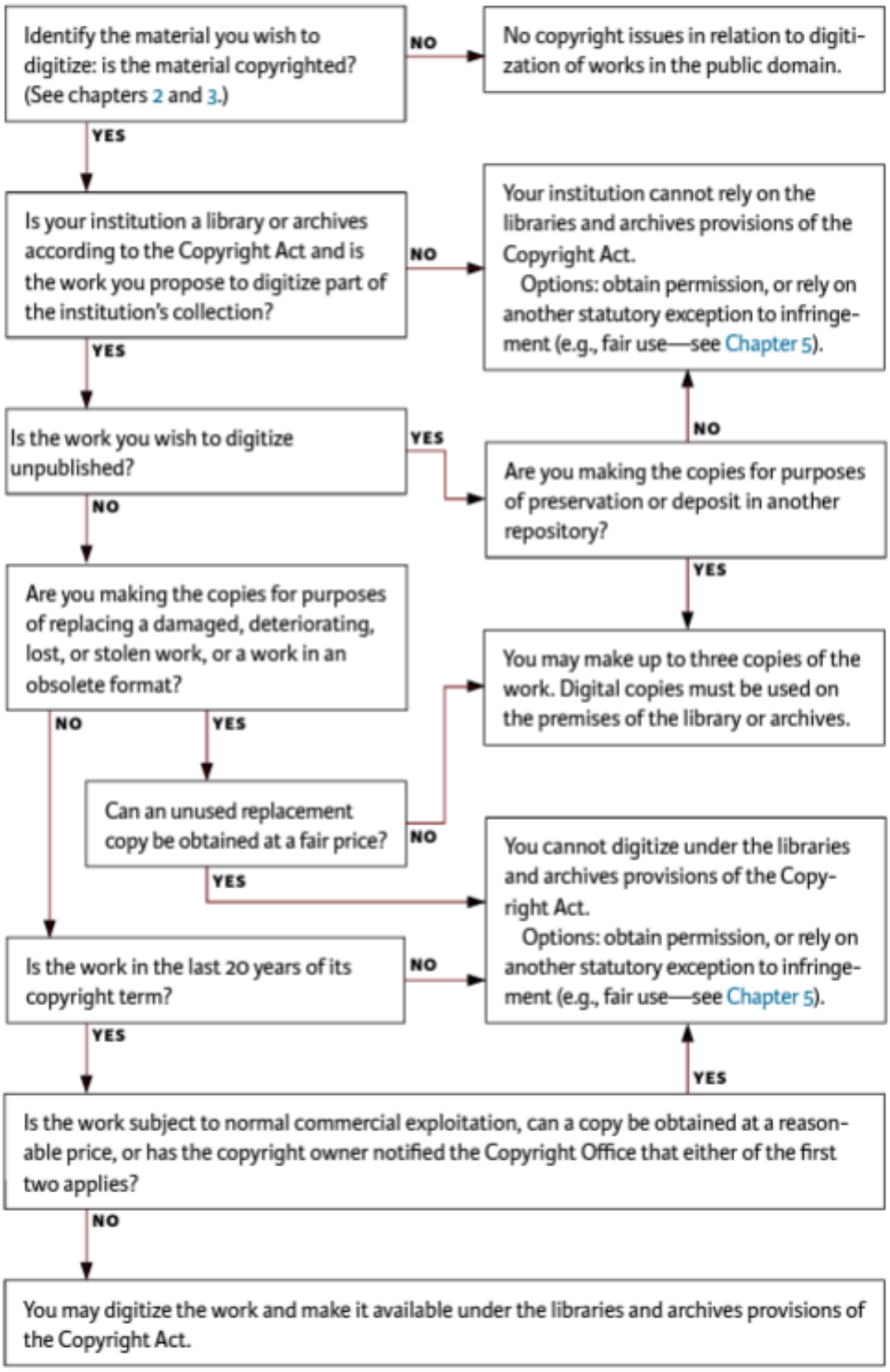
Major specific exemptions for cultural institutions

| | | |
|---|---|---|
| **Libraries and archives exemptions** | User requests; interlibrary loans; certain uses of unpublished items; replacement copies; digitization during the last 20 years of copyright term. See Chapter 6. | 108 |
| **Nonprofit libraries, archives, and educational institutions** | Certain circumventions of access-control mechanisms | 1201 |
| **Nonprofit libraries and educational institutions** | Rental, lease, or lending of phonorecords | 109(b) |
| **Nonprofit libraries** | Loan of computer programs | 109(b)(2) |
| **Nonprofit scholarly, educational, or religious organizations** | Importation of one copy of an audiovisual work for archival purposes or up to five copies of other works for archival or lending purposes | 602(a)(3) |

At present, the only institutions that can take advantage of these exemptions are libraries and archives, not museums. At the College of Southern Idaho Special Collections and Archives, we only digitize those items that are in the public domain and those whose copyright we have retained or acquired. While the exemptions noted above are significant, there are many qualifications and factors that can make a duplication through digitization legal or not legal. Hirtle created a flowchart that can help you understand the decision-making process. Whenever you decide to preserve a work through digitization, remember that you and the archives user can only make one copy. This copy cannot be intended for any use involving commercial advantage. The duplication must provide notice of copyright, a statement that a cover may be covered by copyright, or that it is in the public domain or has an open access license.

If an item in a collection is unpublished, the exemptions for digitization are much broader. Incidentally, these are most of the items we will want to digitize, especially in terms of external collections. Unpublished items can be digitized out of concern for preservation and security of the information contained in them. They can also be digitized for deposit in another library or archives (not a museum) for use in research.

# Digitization Under the Libraries and Archives Provisions



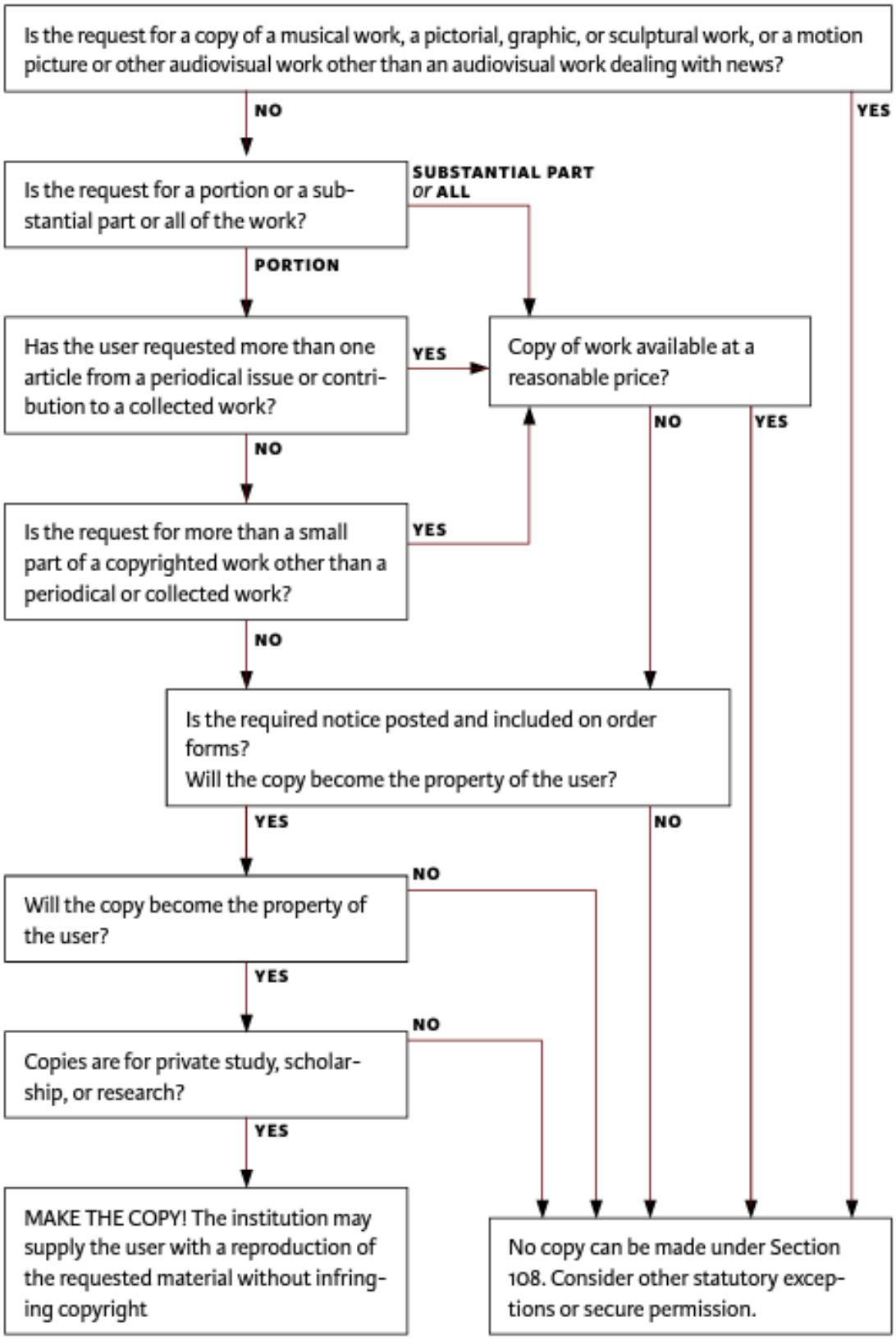
There is no limitation on what format the reproduction may take. It could be a photocopy, microfilm, or digital reproduction. The three-copy restriction, found also in the section on replacement copies of published works, was adopted in recognition of microfilming practice. Best practice in microfilming stipulates that there should be three copies of a work made: the camera negative, the print master, and a service copy.

There are a number of important caveats about this provision. First, the copy must have been made solely for the purpose of preservation or supply to another repository. Second, any copy made in digital format must not be "otherwise distributed in that format" or "made available to the public in that format outside the premises of the library or archives."

This is significant for the manner in which an institution can supply other institutions with copies of unpublished works for research use. For example, a library that digitizes an unpublished movie for deposit in another library may not send a digital copy on DVD to that library. It must instead generate an analog copy (for example, a VHS tape) and send that. In another example, if a library made a replacement copy of a textual work for another library, it would have to print out and send a hard copy rather than e-mail an electronic version—even if it scanned its original to produce the replacement copy. Similarly, if a library made a replacement copy of a published audio CD, it would not be able to lend that CD to patrons (even though it could have lent the original). Instead, it would have to make a cassette copy for loan, since there can be no further distribution of the digital copy. There is no definition of what constitutes "premises," but most analysts assume that this restricts use to a specific library building. Remember, too, the three-copy limit. If the library has one copy on a server and one copy on a backup tape, then only one patron at a time would be able to generate a third copy by copying the server copy to a local machine.

When a patron requests to digitize an item using library tools or requests a digitization from the library staff, there are more stringent limitations. Published textual works are essentially the only things that can be reproduced. Copies of musical sound recordings cannot be made for patrons unless the underlying scores (the musical work) are in the public domain. Copies of spoken sound recordings such as oral histories could be made under Section 108(d) and (e) since no musical work would be involved. Adhere to the flowchart below.

## Request from user to be supplied with the whole or part of a copyrighted work in the collection of the institution



With all of these restrictions related to copyright, it is obvious why the College of Southern Idaho Special Collections and Archives insists on obtaining all copyright for the materials contained in its collections.

## Copyright Risk Management

No matter how hard we try, there will always be individuals who will either claim copyright that is not theirs or will find a way to obtain grounds to file an infringement claim against us even though we claim fair use. Or, it could be that we made a mistake or that one of our users did something illegal or unethical with records made available in our repository. Additionally, preservation actions of works under copyright that does not belong to us, if they are leaked to the public, could be construed as a copyright infringement claim justification.

When lawyers on either side of a case consider a copyright infringement claim, they generally focus on the statutes discussed here as well as case law. Ultimately, they will base their recommendations on the copyright risks in case law. You should always document your research and knowledge regarding IP ownership regarding works that are not in the public domain or whose copyright we do not hold. Consider the recommendations in "Well-intentioned practice for putting digitized collections of unpublished materials online," which was written by OCLC and endorsed by the SAA. Factors to consider include:

- Donor Deed of Gift
- Accession records
- Permissions necessary
- Sensitive information (especially for the twin problem of privacy violations)
- Recency of publication or creation
- Risks of relying solely on "fair use" doctrine

If an item is in the public domain, that fact should be stated clearly in the metadata. When communicating with stakeholders, donors, and the public, always be transparent about your copyright-related decisions and declarations. Those who see these declarations will be able to see that you are trying to act in a well-intentioned way. Additionally, do not let search engines index the digital collections materials you upload (at least those items which copyright prohibits).

When you do receive a complaint, let the Archivist know immediately. Take steps to remove the items from public access until the Archivist and other stakeholders can take appropriate actions, including permanently removing it from public access. Keep track (and make copies) of all records and communications regarding complaints.

In order to cover all bases, the Digital Collections website will have a notice stating that "By using this website, I certify that I will only use materials accessed here for research or other personal uses. I acknowledge that I, not the College of Southern Idaho Special Collections and

Archives, am responsible for clearing rights for any uses. This notice does not apply to works in the public domain that are found in these collections."

## Artificial Intelligence and Copyright

As active members of our community college, we engage daily with the evolving realm of artificial intelligence (AI) and copyright law. Advanced AI systems, such as ChatGPT 3.5 and 4, plugins, and applications that use their API, generate original works, thereby introducing unique challenges concerning ownership and protection.

Although the United States Copyright Office has made decisions in this field, the government has yet to codify them. Our understanding and actions regarding AI and copyright, therefore, operate within the parameters of existing copyright law.

Current copyright law mandates human authorship for protection. With AI systems independently creating content with only our instruction as the impetus, we face the question: Can we consider AI an author under existing copyright law? This complex issue requires thoughtful consideration.

We must also explore whether the AI system's programmer can claim copyright over the AI-generated works. Furthermore, if an AI system learns from copyrighted material, we must consider if the output infringes on the original copyright. These questions highlight the intricate nature of copyright law.

To navigate this evolving landscape, it is our responsibility to stay informed. To that end, Tony Lothspiech, Matthew Reynolds, Reed Hepler, and others have created a committee to explore the impact of Generative AI and make recommendations regarding policies and best practices at the College of Southern Idaho. Additionally, the administration of CSI are currently formulating an Employee Policy regarding AI. Until this is released, specific recommendations and requirements regarding AI use cannot be made in this manual.

Always prioritize respecting intellectual property rights when using AI-generated content. We must uphold the rights of creators and copyright holders, ensuring fair use and protection of AI-generated works. As AI technology continues to evolve, so must our understanding and application of copyright law.

OpenAI's Terms of Use Agreement clarifies that the use of content generated by ChatGPT is not plagiarism. OpenAI permits the use of its AI outputs as long as we do not misrepresent them as entirely human work. When you use AI-generated content, you should acknowledge the role of AI in your process, and never claim your content as 100% human-generated.

Using AI-generated content is not a workaround to avoid due diligence or to disregard others' intellectual property rights. We deeply value the fair use of creative works and the protection of intellectual property in our community.

## CSI Statement of Principles and Objectives regarding Copyright

The following statements and procedures represent a sincere effort by the College to adhere to the provisions of copyright and intellectual property laws and regulations:

1. The College strictly prohibits the illegal use, reproduction, distribution, public display, or performance of copyrighted materials in any form.

2. Only legal copies of copyrighted materials may be made or used on College equipment.

3. College employees shall place appropriate copyright notices on or near all equipment capable of duplicating copyrighted materials.

4. CSI employees who create new works of intellectual property shall be responsible for making sure that any work produced with College resources is in compliance with all applicable copyright and intellectual property laws and regulations.

5. The College shall make this Policy widely accessible and shall provide to faculty, staff, and students access to current and reliable information on copyright and intellectual property laws and regulations, and specific compliance strategies through its copyright website. (http://copyright.csi.edu)

6. The College shall offer training opportunities in copyright and intellectual property.

7. The Library shall make support materials available at http://libguides.csi.edu/copyright.

8. College personnel shall be responsible to learn about copyright laws and regulations, statutory exemptions (such as the Fair Use Doctrine), and about when and how to request necessary clearances and written permissions.

9. Each member of the College community must take individual responsibility for copyright compliance.

10. Members of the College community who willfully disregard this Policy and/or copyright and intellectual property laws and regulations, do so at their own risk and assume all liability for their actions.

The following documents were consulted in the creation of this manual:

1. U.S. Copyright Office, “The Digital Millennium Copyright Act,” The Digital Millennium Copyright Act | U.S. Copyright Office, accessed May 17, 2023, https://www.copyright.gov/dmca/.

2. Peter B. Hirtle et al., *Copyright and Cultural Institutions: Guidelines for Digitization for U.S. Libraries, Archives and Museums* (Ithaca, New York: Cornell University Library, 2009). https://ecommons.cornell.edu/handle/1813/14142.

3. Louisiana State University, “The Original Teach Act Toolkit,” The Original TEACH Act Toolkit | LSU Libraries, 2003, https://lib.lsu.edu/services/copyright/teach/index

4. Richard Stim, “Fair Use: What Is Transformative?,” www.nolo.com, April 7, 2023, https://www.nolo.com/legal-encyclopedia/fair-use-what-transformative.html#:~:text=Examples%20of%20Transformative%20and%20Non-Transformative%20Use.

5. University of California, “Fair Use for Teaching and Research,” Fair use for teaching and research | UC Copyright, accessed May 18, 2023, https://copyright.universityofcalifornia.edu/use/fair-use.html#:~:text=Fair%20use%20allows%20reproduction%20and,copyright%20owner%20%E2%80%93%20under%20certain%20conditions.

6. Joshua Kitchens, “Copyright Issues for Digital Archives,” presentation, Society for American Archivist, February 2021.