

Copyright Policy and Memorandum for Online Students and Faculty

In addition to the AGS Copyright Policy that follows this discussion, we believe that a special discussion will benefit AGS online faculty members and students who, by the nature of distance education, may be at greater risk for violating principles of fair use and may need greater support in exercising their fair use rights.

One of the most important considerations in deciding to use information is that a special notice is no longer required for any piece of intellectual property to be protected by the copyright law. This places the burden of decision-making to use the material, along with all the responsibilities and liabilities, on the individual or an institution.

What is not protected by the law? Although this is not a legal guidance, the general rule is that works in the public domain, US Government work, facts, and logical compilations (like a telephone book) are not protected. These types of materials may be subjects to free use. You may still need to make sure, and be able to demonstrate by appropriate referencing, that these are truly the sources you use. Free use does not mean use without referencing. Indicating the source of information in a way that allows the readers to go directly to the source is a rule in the academic/educational community and is a sign of respect to those who create/compile the information referenced.

We shall assume that all other types of work we may want to use are subject to copyright protection. If you would like to make a copy, use a work as the basis for a new work, publicly display or perform (video or audio tape, for example) a work, send the work or a part of it electronically – in other words, exercise the rights that exclusively belong to the author – you need to check if your intended use is exempt from liability.

Some uses of materials are considered fair use. Libraries may have special rights to use. Educational displays and other activities may enjoy some special protection from liability in the course of instruction, both face-to-face and distance/digital instruction. The United States Copyright Law (2009, Chapter 1, paragraph 110) provides a detailed explanation of what constitutes exemptions from copyright liability. You can find this information at <http://www.copyright.gov/title17/>

Generally, if you have an unexpired copyright permission, your use is governed by the terms of your permission agreement. Even though the AGS Moodle course space is password protected, you may want to check whether your contract covers digital holding or transmission. In all other cases, consult the AGS Copyright Policy or the US Copyright Law.

Whether you are a student or a faculty member, if you intend to utilize the fair use rule or use the materials by license or purchase, and barring clearly prohibited items, such as psychological tests (or any parts of those), graphs and tables in their entirety, and other items protection of which may serve more than protecting intellectual rights (such as consumer protection), think of four “limits”.

1. Limit the amount of your reproduction (keep your direct quotes to a minimum);

2. Limit the number of times you reproduce protected materials (don't use the same article again and again);
3. Limit access to the material you reproduce as a fair use (use password protected Moodle site, for example, versus sending protected information as an e-mail attachment);
4. Limit the number of reproduced original works, focusing on ones that the AGS library already possesses legally.

With any use, in addition to the four "limits" rule, include any copyright notice on the original and appropriate citations and attributions; terminate access at the end of the class. If you plan to use materials repeatedly for the same class, you will need to obtain permission.

To use digital images that are not in the public domain, you will need to have permission. In any case, limit the amount of viewing, reference the source, and eliminate the access once the class is over. For a repeated viewing, you may need to review digital availability periodically, as images can become available and unavailable.

In the digital age, copyright rules present a lot of ambiguity. As the virtual space expands, the rules will likely become more elaborate (and hopefully, more clear). It is difficult, if not impossible, to become an expert in these matters. When in doubt, ask someone for his or her opinion. If both of you are in doubt, you are likely dealing with copyright protected materials. Act conservatively.

Below is the Copyright Policy established at the Adler Graduate School.

AGS Copyright Policy

Copyright Law will be accommodated at the Adler Graduate School with reference to the "Fair Use" standard. In applying this standard, four factors will be considered when assembling instructional materials authored by another person.

- 1) The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- 2) The nature of the copyrighted work;
- 3) The amount and substantiality of the portion used in relation to the copyrighted work as a whole;
- 4) The effect of the use upon the potential market for, or value of, the copyrighted work. The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

The "Fair Use Worksheet" will guide one in making a decision about whether to use another author's work for instructional purposes. However, in general, an instructor may use another author's work except in the following circumstances (borrowed from policy established by Southeastern Louisiana University):

You cannot copy:

- 1) To substitute for purchase or replacement (for example, an article that would normally be for sale)

- 2) Workbooks, exercises, standardized tests, answer sheets
- 3) The same item by the same instructor term after term (for example, some periodic review and adaptation of course materials is appropriate)
- 4) If it is directed by a higher authority (for example, if an AGS administrator in authority indicates that another author's work cannot fairly be used for instructional purposes)
- 5) If there is a charge to students beyond the photocopy cost
- 6) To create, replace, or substitute for anthologies, compilations, or collective works

All materials assembled for courses will include: 1) a photocopy of the copyright statement, usually appearing on the first page of an article or near the beginning of a journal issue, for example; or 2) if copyright information cannot be found, a photocopy of the statement, "This work may be protected by Copyright Law".

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