

## **Bard College Copyright FAQ**

### **Q. What kinds of works are protected by copyright?**

A. Copyright protection is conferred to expressive or creative works, including literary works, musical works (including accompanying words), dramatic works (including accompanying music), pictorial/graphic/sculptural works, choreography, motion pictures and other audio-visual works, sound recordings, architectural works, computer programs, and compilations and derivative works.

### **Q. What kinds of things are not protected by copyright?**

A. The following are examples of things not protected by copyright:

1. Ideas, procedures, principles, methods, systems, discoveries, and devices;
2. Titles, names, short phrases, slogans;
3. Works that are “unfixed,” that is, not fixed in a tangible form of expression (for example, improvisational speeches or performances that have not been written or recorded);
4. Information that is common property with no original authorship (calendars, height and weight charts, rulers).

### **Q. What rights do I have as the copyright owner of a written, visual, or audio work?**

A. The U.S. Copyright Act confers upon authors of copyrighted works the exclusive rights to do and authorize any of the following:

1. to reproduce the copyrighted work;
2. to prepare derivative works based upon the copyrighted work;
3. to distribute copies of the copyrighted work to the public by sale or other transfer of ownership;
4. to perform the copyrighted work publicly; and
5. to display the copyrighted work publicly.

### **Q. Do I need to register my work with the U.S. Copyright Office for my work to receive copyright protection?**

A. No. Under the U.S. Copyright Act, copyright protection is conferred as soon as an “original work of authorship is fixed in a tangible medium of expression.” This means as soon as the work can be shown to others, through visual (written) or audio means. However, many copyright owners choose to register their works with the U.S. Copyright Office, which confers a number of additional protections on copyright owners, as well as the ability to sue for copyright infringement.

**Q. What is copyright infringement?**

A. Generally, copyright infringement occurs when someone reproduces, prepares derivative works based upon, distributes copies of, publicly performs, or publicly displays, copyrighted work owned by another without the permission of the copyright owner.

**Q. What are the penalties for copyright infringement?**

A. Copyright infringement may result in civil and criminal penalties. These include actual damages or statutory damages in an amount not less than \$750 and not more than \$30,000 per work infringed. If infringement is found to be “willful”, the award may be up to \$150,000 per work infringed. An infringer may also be ordered to pay costs and attorneys’ fees at a court’s discretion. Criminal penalties can be imposed in an amount of up to \$250,000 per offense, and imprisonment of up to five years.

**Q. Are there any instances in which I can use the copyrighted work of another without permission from the copyright owner?**

A. Permission to use a copyrighted work is not required if the use falls within the Fair Use Doctrine. There are four factors that must be considered when analyzing whether the use of a work is permissible under the Fair Use Doctrine. No single factor is determinative, but rather, the factors must be considered together:

1. The purpose and character of the use. For example, whether the use is commercial (weighing against a finding of fair use) or educational (weighing in favor of a finding of fair use).
2. The nature of the copyrighted work being used. For example, whether the work being used is of a highly creative nature (weighing against a finding of fair use).
3. The amount or substantiality of the portion of the work being used. For example, whether the entire copyrighted work is being used (weighing against a finding of fair use) or just a small excerpt (weighing in favor of a finding of fair use).
4. The effect of the use on the market for, or value of, the work. For example, whether the use of the work being examined as part of the fair use analysis would have an impact on the sales of that work (weighing against a finding of fair use).

In addition, no permission is needed if a work has fallen into the public domain. Generally, for most works created after 1978, protection lasts for the life of the author plus 70 years. For anonymous works, pseudonymous works, or works made for hire, the copyright term is 95 years from the year of first publication or 120 years from creation, whichever comes first. All works published in 1928 or earlier are in the public domain.

**Q. Can I show a full-length movie to an in-person class?**

A. Under the Fair Use Doctrine, a legally purchased full-length movie may generally be shown in an in-person classroom setting for educational purposes. However, full-length movies cannot be

shown in the classroom if the copy being shown has been “ripped” from a source such as a DVD, even if the source was legally purchased. “Ripping” even legally purchased digital copies of films is a violation of the Digital Millennium Copyright Act (“DMCA”) unless an exception applies. One exception is for the use of short excerpts for the purposes of criticism or commentary.

Copyrighted movies or television shows may not be shown outside of the classroom or for non-educational purposes without having obtained permission from the copyright owner.

**Q. Can I stream a movie off a streaming service that I subscribe to, such as Netflix or Hulu, to a class?**

A. No, the terms of many streaming services generally prohibit the showing of content in the classroom, subject to very limited exceptions.

**Q. Can I show an entire movie or television show, or perform an entire play to a virtual class?**

A. No, the Technology, Education and Copyright Harmonization Act (the “TEACH Act”) prohibits faculty teaching an online course from performing or showing an entire dramatic literary or musical work (play, opera, musical, television show, movie, etc.).

**Q. If I want to show a brief clip of a movie or television show, or read an excerpt from a book to a virtual class, are there any restrictions?**

A. Yes. any content used in the online classroom setting must:

1. Be legally obtained;
2. Be limited in access to the instructor and students enrolled in the course;
3. Be displayed under the supervision of the course instructor as a regular aspect of instruction;
4. Be accompanied by a notice that the materials are under copyright protection and may not be distributed; and
5. Reasonable controls must be used to prevent dissemination and retention (i.e., streaming rather than allowing the download of a video).

**Q. Can I play music at events, either from my own personal collection or from a service I subscribe to, such as Apple Music or Spotify?**

A. No. Music is also protected by copyright law, and services such as Apple Music and Spotify should not be used to promote events. Any member of the Bard College Community that wishes to play or perform music at any college sponsored event must obtain permission from the copyright owner. There may also be songs available to you for use under the College’s agreements with ASCAP and BMI. Please contact Frank Corliss, Director, Bard College Conservatory of Music, at [corliss@bard.edu](mailto:corliss@bard.edu) or Kat Ottosen, Manager of Event Production, at [kottosen@bard.edu](mailto:kottosen@bard.edu) for more information.

**Q. Can I include copyrighted music or other content protected by copyright in social media postings?**

A. No. Copyrighted music or any other content protected by copyright should not be included in any social media postings. Permission from the copyright owner should be obtained prior to using copyrighted content in any such posting.