Do you need permission?

You need permission to use a work unless: the work is not protected, you can exercise an owners' exclusive right, or your use qualifies for an exemption (Fair use is the most common exemption).

Ask yourself the 3 questions below to evaluate the need for permission to use a work:

1. **Is the work protected?**

Copyright does not protect and anyone may freely use:

- Works that lack originality further explained
  - logical, comprehensive compilations (like the phone book)
  - unoriginal reprints of public domain works
- Works in the public domain
- Freeware (not shareware, but really, expressly, available free of restrictions-ware -- this may be protected by law, but the author has chosen to make it available without any restrictions)
- US Government works
- Facts
- Ideas, processes, methods, and systems described in copyrighted works

The presence or absence of a copyright notice no longer carries the significance it once did because the law no longer requires a notice. Older works published without a notice may be in the public domain, but for works created after March 1, 1989, absence of a copyright mark does not mean that a work isn't protected by copyright.

2. **Are you exercising one of the owner's exclusive rights? If so, you don't need permission**

Do you own the rights to the work? If so, those rights include the right to:

1. to reproduce the copyrighted work in copies or phonorecords;
2. to prepare derivative works based upon the copyrighted work;
3. to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and
6. in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

*This policy was reviewed and approved by the President and Provost and endorsed by the Information Technology Committee in December 2008.

**Please keep in mind that the information presented here is only general information. True legal advice must be provided in the course of an attorney-client relationship specifically with reference to all the facts of a particular situation.*
3. Does your use qualify for an exemption?

Exemptions include:

- **Fair Use** (four-factor fair use worksheet)
- **Library’s special rights**—Our libraries are authorized to exercise special rights in addition to fair use. These rights are described in Section 108 of the copyright law and include:
  - archiving lost, stolen, damaged or deteriorating works
  - making copies for library patrons
  - making copies for other libraries’ patrons (interlibrary loan)
- **Educational performances and displays**—Educational institutions and governmental agencies are authorized by a separate copyright statute to publicly display and perform others’ works in the course of face-to-face teaching activities, and to a lesser degree, in digital distance education. These rights are described in Sections 110(1) and (2), respectively, of the Copyright Act. More information about the recent expansion of Section 110(2)’s rights for digital distance education may be found in these TEACH Act resources: [UNC comparison](#) and University of Texas TEACH resources.

*Even if all or part of a work is not protected by copyright law, it may be protected by other laws. For example, you may need to consider rights of privacy and publicity, ask permission to use a trade or service mark, or get a license to practice a patented process or system, but discussion of these rights and interests is beyond the scope of this Policy statement.*

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