



FAIR USE GUIDELINES FOR DIGITAL IMAGES

Most photographs/images are copyrighted, and use of them is subject to copyright restrictions. These guidelines attempt to share with faculty and students how they may use digital images legally.

Legal Uses of Digital Images Through Fair Use Provisions

It is generally accepted that the following uses of digital images are permitted under copyright law's fair use provisions:

- An educator may display digital images for educational purposes, including face-to-face teaching of curriculum-based courses and research and scholarly activities at a nonprofit educational institution.
- An educator may compile digital images for display on the institution's secure electronic network to students enrolled in a course given by that educator for classroom use, after-class review, or directed study, during the semester or term in which the educator's related course is given.
- Students may use digital images in an academic course assignment such as a term paper or thesis or in fulfillment of degree requirements.
- Students may publicly display their academic work incorporating digital images in courses for which they are registered and during formal critiques at a nonprofit educational institution.
- Students may retain their academic work in their personal portfolios for later uses such as graduate school and employment applications.
- Educators, scholars and students may use or display digital images in connection with lectures or presentations in their fields, including uses at non-commercial professional development seminars, workshops and conferences where educators meet to discuss issues relevant to their disciplines or present works they created for educational purposes in the course of research, study or teaching.

More Information About Fair Use

Fair use is a legal principle that provides certain limitations on the exclusive rights of copyright holders. The purpose of these guidelines is to provide guidance on the application of fair use principles by educational institutions, educators, scholars, and students who wish to digitize copyrighted visual images under fair use rather than by seeking authorization from the

copyright owners for non-commercial educational purposes. These guidelines apply to fair use only in the context of copyright.

Beyond Fair Use - Factors that Limit Use

If you seek to use copyrighted material that goes beyond fair use, you must obtain written permission from the copyright owner to copy the work. Permission is generally required for reproducing and publishing copyrighted images in publications, including scholarly publications in print or digital form. Permission is also generally required before posting any copyrighted content on the Internet or distributing it widely in any way. Section 107 of the Copyright Act sets forth four fair use factors which should be assessed in each instance, based on the particular facts of a given case, to determine whether a use is a fair use. Before publishing any images under fair use, even for scholarly and critical purposes, scholars and scholarly publishers should conduct the four-factor fair use analysis, described in Section 107 of the Copyright Act.

The limitations and conditions set forth in these guidelines do not apply to works in the public domain, such as:

- U. S. government works
- Works on which copyright has expired
- Works for which there are no copyright restrictions

Also, license agreements may govern the uses of some works and users should refer to the applicable license terms for guidance. If the image belongs to Xavier University or is made available via a database licensed to Xavier, prior to seeking permission, you should check with the library to determine whether the University maintains a licensing agreement for the work. The University participates in contractual arrangements mandating royalty payments or licensing fees to copyright owners whenever feasible.

If you are able to determine the copyright owner of an image, and wish to secure permission to publish their image(s), you may seek their permission via mail or email. The fastest and easiest way of requesting permission is to use email. If sending a letter by regular mail, enclose a self-addressed, stamped envelope and include lines at the bottom of the letter for the copyright owner to date, sign, and grant/deny permission. You should also mail two copies of the letter so that the copyright owner can keep one and return a signed copy to you in the self-addressed, stamped envelope. When seeking copyright permission include the following details in your request: title, author, edition, date, material to be duplicated, number of copies, distribution, purpose, and type of reprint.

It is important to maintain permanent records of permissions sought, denied, or granted. You should keep permission letters forever to defend against claims of infringement. For more information and samples of permission letters, see the U.S. Copyright Office.

Citing Digital Images - Attribution

Educators, researchers and students must provide attribution to the author, creator or producer of each digital image used for fair use purposes or for any other purpose. Cite the image using a citation style appropriate for your work.

Finding Copyright-Friendly, Public Domain, or Royalty-Free Images

The library provides a list of web sites and databases (see link below) that contain digital images which can be used by educators, scholars, and students under the fair use guidelines. However, we advise you to exercise caution in using digital images downloaded from the Internet. Such digital environments contain a mix of works protected by copyright and works in the public domain. Always be sure to read each site's conditions for use and copyright information.

For More Information

- [US Copyright Office](#)
- [Stanford University Copyright & Fair Use Center](#)
- [Cornell University Copyright Information Center](#)
- [Digital Image Rights Computator](#) (provided by the Visual Resources Association)

For answers to specific questions, please contact:

- Anne Davies, Head, Resource Sharing, davies@xavier.edu
- Patty Greco, Acquisitions Librarian, greco@xavier.edu
- Tina Meagher, Manager of Media Services, meagher@xavier.edu
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