



Copyright Basics for HCE Newsletters



1. What is Copyright?

Copyright is a form of protection granted by laws to authors/creators of original works “fixed in a tangible medium of expression.” Tangible media can include paper, web, film, sound recording, etc. Copyright gives creators a monopoly on rights to use and authorize use of their works for a certain amount of time (currently, any work first published after January 1, 1978 is protected for the life of the author plus 70 years) in order to encourage the creation of original works. This includes the right to reproduce the work, prepare derivative works based on it, and distribute it or make copies of it. Print and web-based materials are protected by copyright, so this includes recipes, poems, songs, craft instructions and articles found in print publications and on the Internet. (A creator does not need to register a work with the U.S. Copyright Office in order to own the copyright.)

2. Why learn about copyright?

It is illegal to use copyrighted materials without permission. You can be sued for doing so. Protect yourself and your organization from costly lawsuits by requesting permission to use others’ copyrighted materials.

3. What materials are not protected by copyright?

Materials not protected by copyright include:

- Works with expired or lost copyright
- Works produced by U.S. federal government employees as part of their jobs.
 - For example, the image files on the Agriculture Research Service web site are copyright free and available for anyone to use: <http://www.ars.usda.gov/is/graphics/photos/>. For a print publication, you would need high-resolution versions of these photo files.
- Works where the author failed to obtain proper copyright
- Works clearly in the public domain—works first published in the U.S. in 1922 and before are in the public domain.

A **public domain** work is a creative work that is not protected by copyright and which can be freely used by everyone. While you can use public domain works without seeking permission, you must still cite them appropriately to avoid plagiarism. Remember that placing a copyrighted work on the Internet does not enter it into the public domain.

To determine when a work passes into the public domain and is no longer protected by copyright, see “When U.S. Works Pass Into the Public Domain,” by Lolly Gasaway, University of North Carolina, at <http://www.unc.edu/%7Euncing/public-d.htm>. Last updated 11-04-03. Chart may be freely duplicated or linked to for nonprofit purposes. No permission needed. Please include web address on all reproductions of chart so recipients know where to find any updates. [LINK TO <http://www.unc.edu/%7Euncing/public-d.htm>]

Note that “Copyright Notice” means a Statement of Copyright, All Rights Reserved, or the symbol ©.

4. What is Fair Use?

Fair use is a specific part of the copyright law based on the belief that the public is entitled to freely use limited portions of copyrighted works, including quotes, “for purposes such as commentary, criticism, news reporting, teaching (including multiples copies for classroom use) and scholarly reports.”

Free and easy to get off the Internet is not the same as fair use. The good faith application of fair use limits the liability of institutions and individuals.

5. How do you determine fair use?

When determining fair use, the courts consider four factors that are weighed against each other. Often referred to as the four-factor test, ask yourself the following questions before deciding if your use of another's work would be considered fair use:

- The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes.
- The nature of the copyrighted work;
- The amount and substantiality of the portion used in relation to the whole, and
- The effect of the use upon the potential market for or value of the copyrighted work.

If your intended use is outside of "fair use" you must seek permission. Allow ample time for a response (more than one month) and have alternative materials ready to use if permission is denied or there is no response. See UW-Extension resources listed below on how to seek Copyright permission.

6. Photographs

Photos are automatically copyrighted to the person who created the image. Photos of children must be accompanied by a release or consent form signed by a parent or guardian.

See UW Cooperative Extension Photo Consent Forms at <http://www.uwex.edu/ces/admin/policies/photo.cfm>

7. Resources

See the **UW Cooperative Extension** Copyright Web page at <http://www.uwex.edu/ces/copyright/> for a sample letter and information on:

Using Other People's Copyrighted Materials
How to Seek Copyright Permission
And more...

See the **University of Wisconsin System** Office of General Counsel online materials on:

Copyright Law
<http://www.uwsa.edu/gc-off/deskbook/copyrgt.htm>

Frequently Asked Questions about Copyright
<http://www.uwsa.edu/gc-off/deskbook/cpyrtfaq.htm>

Video on Copyright Law
<http://www.uwsa.edu/gc-off/video.htm>

Recipes: Web Examples

The best policy with recipes is to get permission and credit the source for any recipe that is not a family recipe. As an illustration, consider that one condition of a well-known national contest, the Pillsbury Bake-Off, is that only original recipes may be submitted and thereby published. If all you have is the name of the person who contributed a recipe, and you cannot verify the original source, be safe and don't publish it. Because copyright protection includes the right to adapt or make derivatives of a work, adapting a recipe or craft pattern does not make it yours to distribute or publish. Because the degree of change necessary to qualify as a new recipe versus an adaptation is subjective and difficult to define, seek permission from the original copyright holder in every case.

Better Homes and Gardens

Many companies, such as *Better Homes and Gardens*, search the Internet for their published materials to determine that anyone using those materials has permission to do so. As of May 2006, the *Better Homes and Gardens* Web site posts the following statements under "Rights":

You acknowledge that: 1. We permit access to content that is protected by copyrights, trademarks and other intellectual and proprietary rights ("Rights") and; 2. This Visitor Agreement and applicable copyright, trademark and other laws govern your use of such content. Our Limited License to You. You are free to display and print for your personal, non-commercial use information you receive through our sites. **You may not reproduce, distribute, or otherwise use any of the materials without the prior written consent of the Rights holder.** Requests for permission to reproduce, distribute or otherwise use materials found on our sites should be made to eReprints at meredith.com. The burden of determining whether any content on our sites is or is not protected by Rights rests with you. Copyright. Contents on this site are copyright 1996-2003 by Meredith Corporation or its affiliates or licensors. Unauthorized distribution or reproduction is forbidden. If you have questions or wish to obtain more information from or about Meredith Corporation, please visit meredith.com

Meals for You

The Meals for You web site at <http://www.mealsforyou.com/> provides thousands of recipes, most searchable by type, ingredient and nutrient content. The site has categories for diabetics, dieters, vegetarians and gourmets. When clicking a menu plan, a nutritional analysis and a shopping list for the amount of servings you pick will be created.

Before you search for a recipe, click on Terms and Conditions for copyright and fair use policies. In May 2006, the site said:

"All content on the Meals For You website, including images and graphics, are protected under applicable copyright and trademark laws. **Copying, modifying, distributing, transmitting, displaying, selling, licensing, using, framing, or publishing derivative works for commercial purposes, without written consent from Point of Choice, is prohibited.** You may copy and print portions of this website for informational, non-commercial, or personal use only. Non-profit organizations, **non-profit educational institutions**, church groups, personal websites, health professionals, and operators of non-commercial health- or nutrition-related websites **may use or reprint up to 25 Meals For You recipes at no charge. Each recipe must include the following text: 'Recipe provided by www.MealsForYou.com. Copyright: Point of Choice, Inc.'**"

5 a Day Recipes

The 5 a Day web site at www.5aday.org provides fruit and vegetable recipes and tips. As of May 2006, the site “**allows reproduction of web site content with proper accreditation given to www.5aday.org.**” Please check the site to make sure this is still current policy before using their materials.



Materials prepared by Barbara Lazewski, UW-Madison Steenbock Memorial Library; Pamela DeVore, UW Cooperative Extension Publishing; and Jo Futrell, UW Cooperative Extension News, 5/06