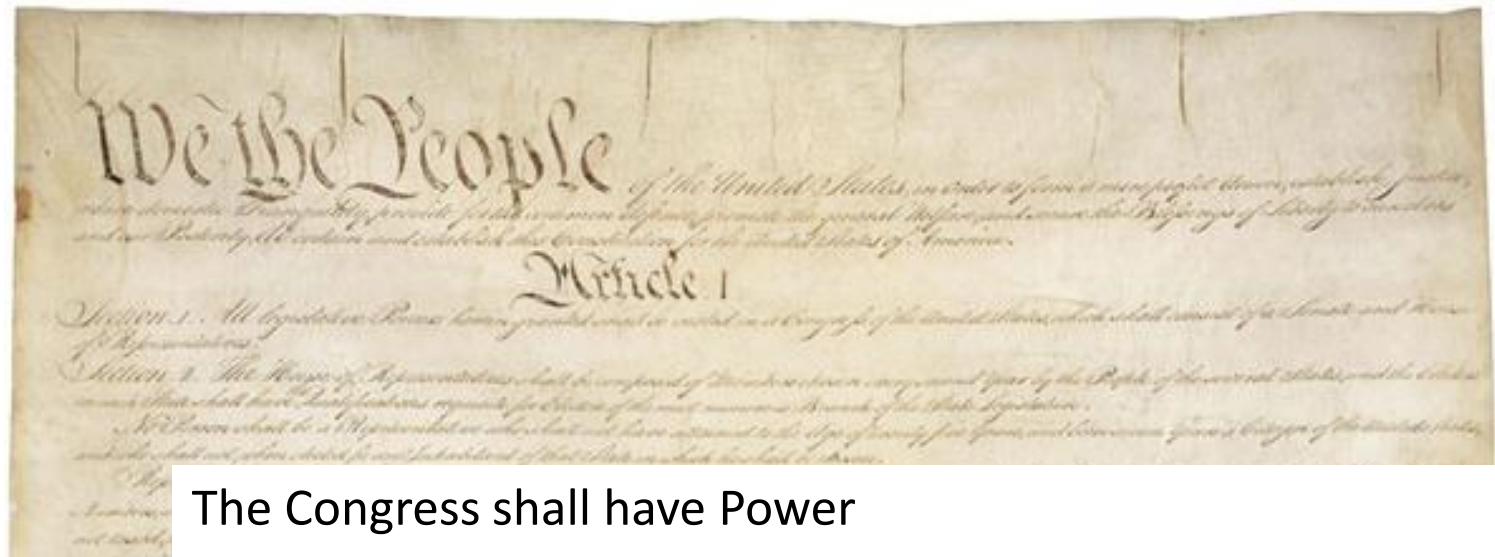


Intellectual Property in the Academy

Claire Lewis Evans

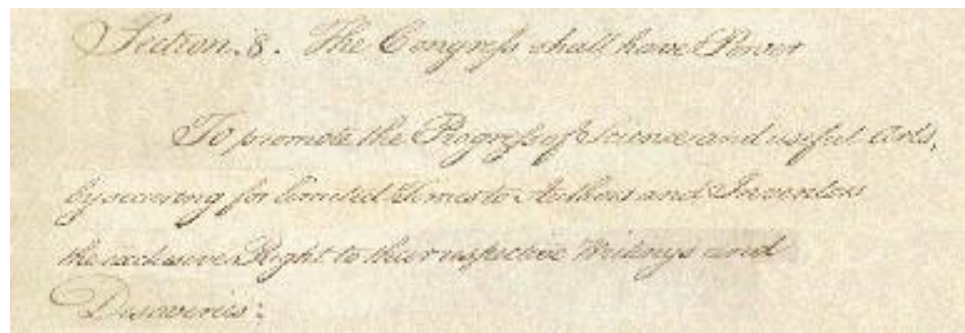
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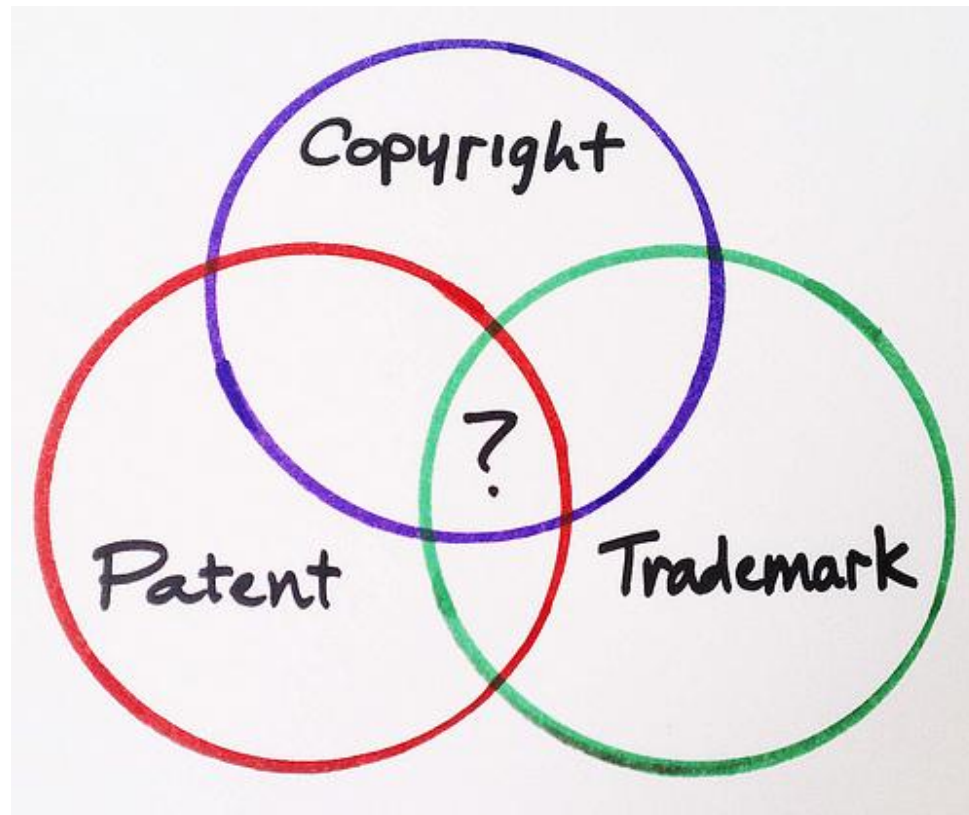


The Congress shall have Power

To promote the Progress of Science and useful Arts,
by securing for limited times to Authors and Inventors
the exclusive Right to their respective Writings and
Discoveries.



Three Types of Intellectual Property



Patent

In the U.S., a patent gives the holder the right to exclude others from making, using, selling, offering to sell, and importing any patented invention. Thus, a patent does not necessarily provide the holder any affirmative right to practice a technology. Instead, it provides the right to exclude others from practicing it. Patent claims are the legal definition of an inventor's protectable invention.

—*UA Office of Technology Transfer*
ott.ua.edu

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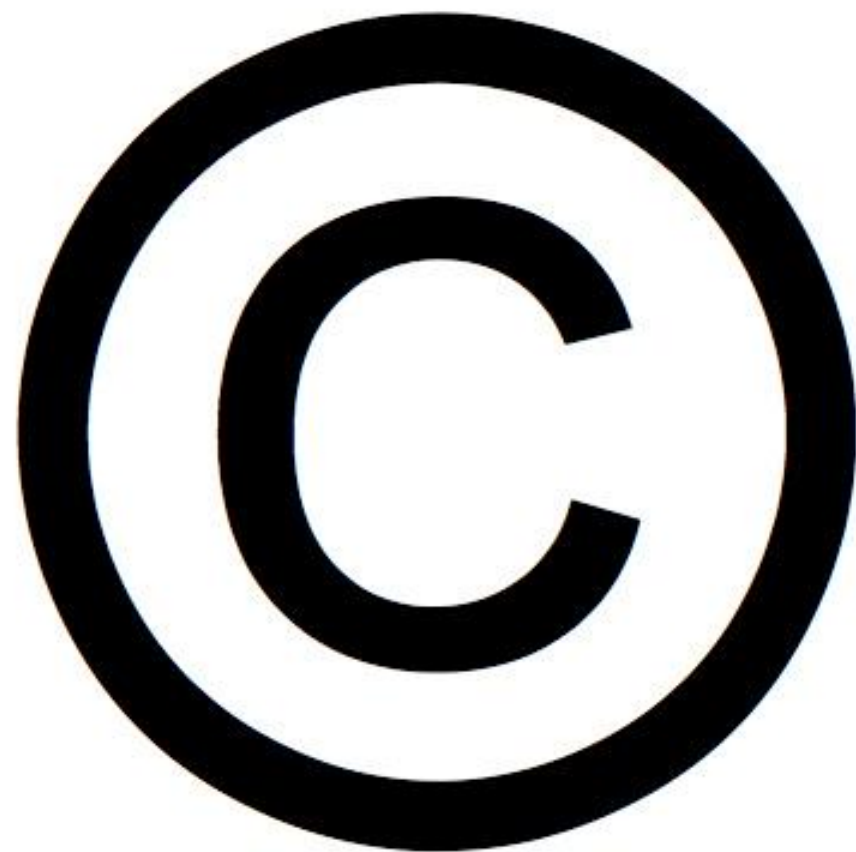


touching lives

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Circular 1



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www.copyright.gov



The Copyright Term Extension Act

a.k.a. the Sonny Bono Copyright Term Extension Act, the Sonny Bono Act, and even the Mickey Mouse Protection Act



In 1998, the Copyright Term Extension Act extended copyright term from life of the author plus 50 years to **life of the author plus 70 years** and for works of corporate authorship to 120 years after creation or 95 years after publication, whichever endpoint is earlier.

Copyright protection for works published prior to January 1, 1978, was increased by 20 years to a total of **95 years from their publication date**.

Under this Act, works made in 1923 or afterwards that were still protected by copyright in 1998 will not enter the public domain **until 2019 or afterward**.

1923

BUSTER KEATON



STEAMBOAT BILL JR.

Par autorisation spéciale de Leopold FRIEDMAN Trustee et Raymond ROHAUER

1928

What's the status?

[The Digital Slider](#)

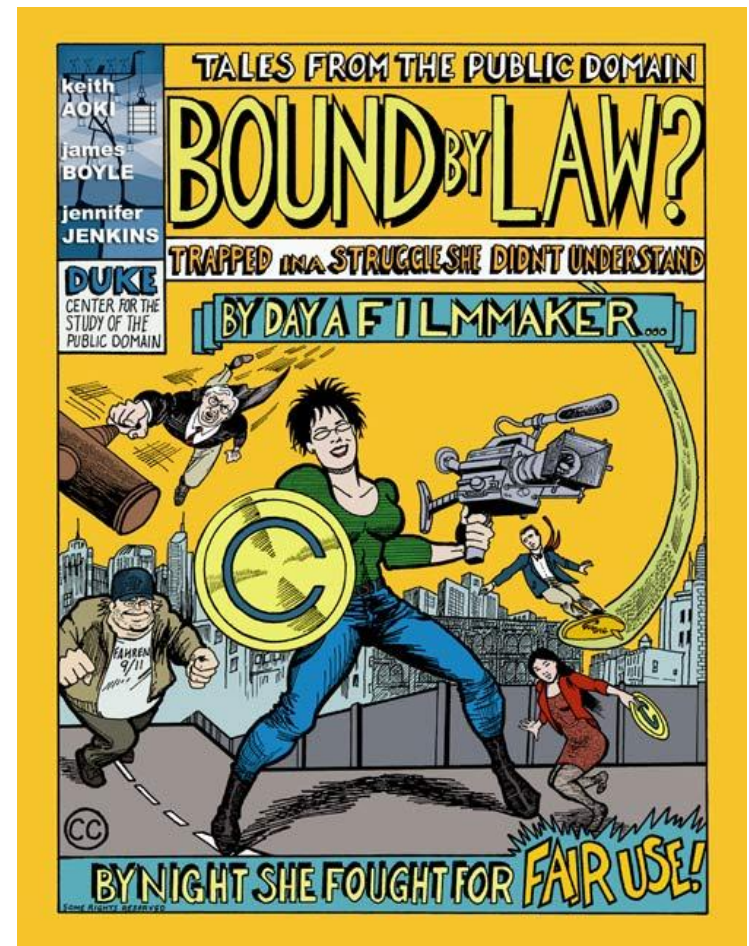
[Cornell's Public Domain chart](#)

WELL, MANY WORKS PUBLISHED BETWEEN 1923 AND 1977 ARE IN THE PUBLIC DOMAIN BECAUSE THE AUTHORS DID NOT COMPLY WITH NOTICE, RENEWAL OR OTHER FORMALITIES.

BUT TRYING TO TRACK DOWN THIS INFORMATION CAN BE TIME-CONSUMING AND FRUITLESS, SO ARTISTS OFTEN HAVE TO PRESUME THESE WORKS ARE COPYRIGHTED.

DATE OF WORK CREATED 1-1-78 OR AFTER *	PROTECTED FROM WHEN THE WORK IS FIXED IN A TANGIBLE MEDIUM OF EXPRESSION
PUBLISHED BEFORE 1923	IN PUBLIC DOMAIN
PUBLISHED FROM 1923 TO 1963	WHEN PUBLISHED WITH NOTICE (WORKS PUBLISHED WITHOUT NOTICE ARE IN THE PUBLIC DOMAIN)
PUBLISHED FROM 1964 TO 1977	WHEN PUBLISHED WITH NOTICE (WORKS PUBLISHED WITHOUT NOTICE ARE IN THE PUBLIC DOMAIN)
CREATED BEFORE 1-1-78 BUT NOT PUBLISHED	1-1-78 (THE EFFECTIVE DATE OF THE 1976 COPYRIGHT ACT)
CREATED BEFORE 1-1-78 BUT PUBLISHED BETWEEN THEN AND 12-31-2002	1-1-78
CREATED BEFORE 1-1-78 AND PUBLISHED AFTER 12-31-2002	1-1-78

*WORKS PUBLISHED WITHOUT NOTICE BETWEEN 1-1-78 AND 3-1-89 RETAINED COPYRIGHT ONLY IF THE OMISSION OF NOTICE WAS CORRECTED.



The Public Domain

- works belonging to the public from the get-go (government records, etc.)
- works that have passed out of copyright
- works that *never were* under copyright – that predate the notion

[The Library of Congress](#)

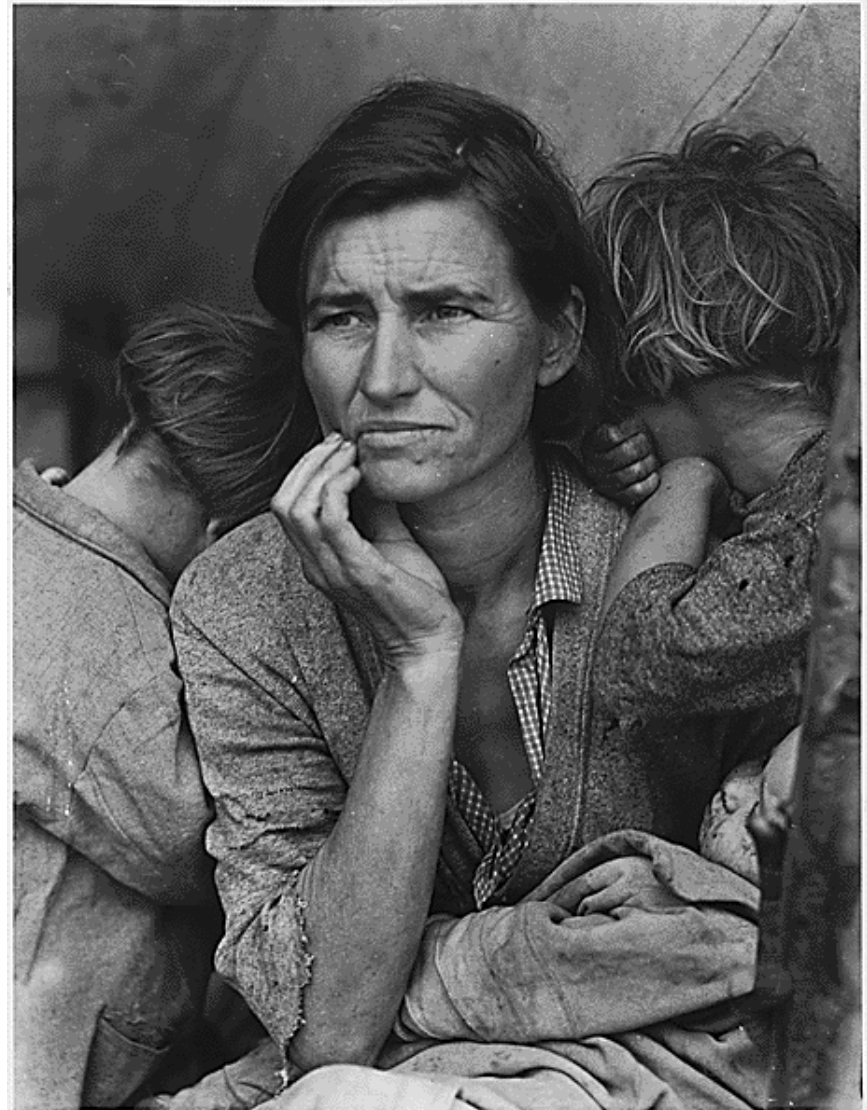
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Dorothea Lange, Destitute pea pickers in California. Mother of seven children. ca. 1936. Farm Security Administration/National Archives

Circular 21

Copyright

United States Copyright Office

Reproduction of Copyrighted Works by Educators and Librarians

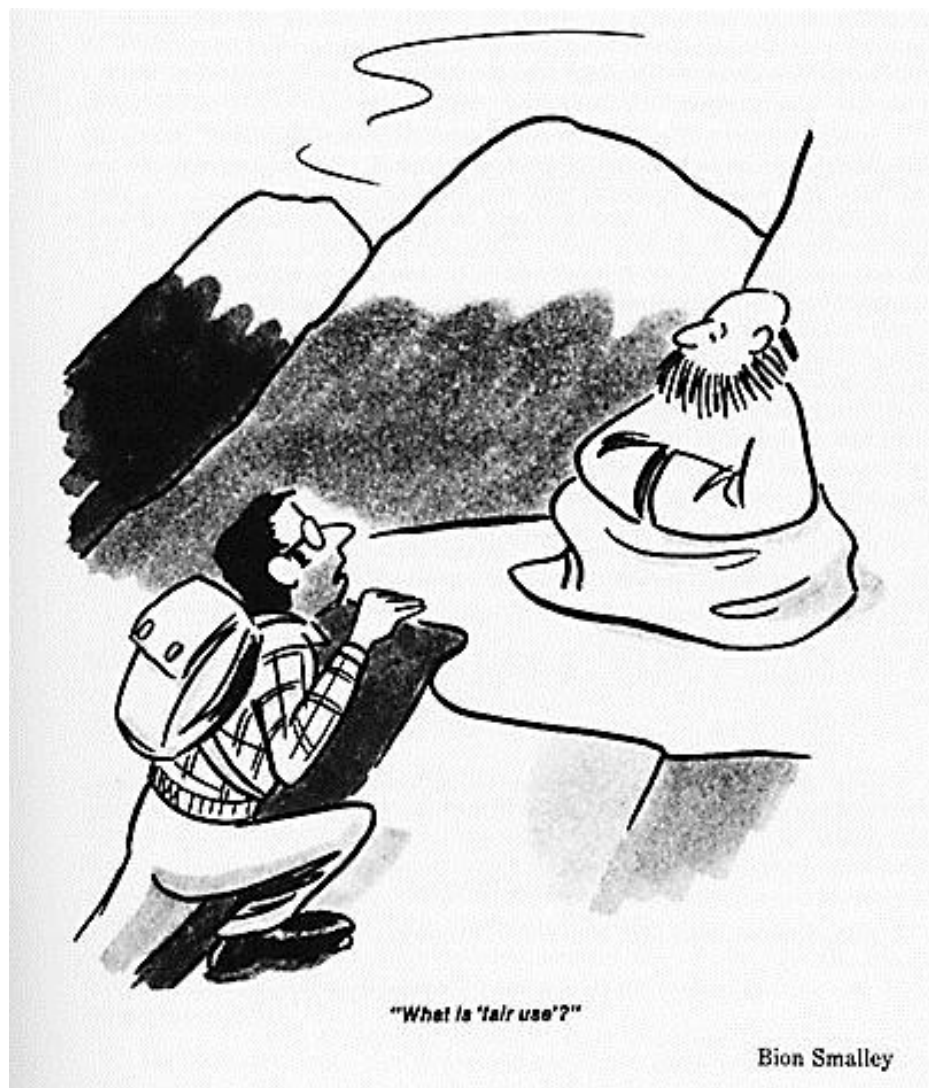
Many educators and librarians ask about the fair use and photocopying provisions of the copyright law. The Copyright Office cannot give legal advice or offer opinions on what is permitted or prohibited. However, we have published in this circular basic information on some of the most important legislative provisions and other documents dealing with reproduction by librarians and educators.

www.copyright.gov

The Four Factors of Fair Use

Judges use four factors when considering fair use disputes. However, the “four factors” are only general guidelines; the courts are free to adapt them a case-by-case basis according to need and interpretation.

1. the purpose and character of the use
2. the nature of the copyrighted work
3. the amount and substantiality of the portion taken, and
4. the effect of the use upon the potential market.



"What is 'fair use'?"

Bion Smalley

Looking for Rightsholders

[The Copyright Office's Public Catalog](#): copyright registrations filed since 1978

[Stanford's Copyright Renewal Database](#)

Copyrights renewal records received by the U.S. Copyright Office between 1950 and 1992 for books published in the U.S. between 1923 and 1963 (*a feature of Stanford's [Copyright and Fair Use Center](#)*)

[Copyright Clearance Center](#): not-for-profit global rights broker representing a huge pool of rightholders; online portal for easy permissions-gathering

[WATCH: Writers, Artists, and Their Copyright Holders](#)

database of copyright contacts for writers, artists, and prominent figures in other creative fields run jointly by the Harry Ransom Center at UT-A and the University of Reading Library

[The Authors Registry](#)

not-for-profit clearinghouse for payments to authors, representing U.S. authors' organizations including The Authors Guild, The American Society of Journalists & Authors, the Dramatists Guild, and the Association of Authors' Representatives

If none of these produce leads, you
may be dealing with an

ORPHAN WORK

But not necessarily a dead end.
Consider your use, your rights, and make an
informed risk assessment.



PERMISSION FAQs

(Author Responsibilities and Copyright Guidelines)

CONTENTS:

1. Who is responsible for clearing permissions? (page 2)
2. What if I cannot find the copyright owner, or get no response? (page 2)
3. What types of works are protected by copyright? (page 2)
4. Which works are in the public domain? (page 3)
5. When can I apply fair use? (page 3)
6. Do different types of works have different permissions considerations? (page 4)
 - Photographs (page 4)
 - Cover Photographs and Advertising (page 4)
 - Publications Written or Co-Written By You (page 4)
 - Unpublished Material (page 5)
 - Film: Publicity Stills, Frame Enlargements (page 5)
 - Interviews (page 5)
 - Paraphrased or Summarized Material (page 6)
 - Works Made For Hire (page 6)
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8. Where can I find more information and copyright resources? (page 6)
 - Websites and Books (page 6)

ATTACHMENTS:

- A. Sample Permission Request for Textual Material (page 8)
- B. Sample Permission Request for Illustrations and Cover Art (page 10)
- C. Sample Interview Release (page 12)
- D. Public Domain Chart (page 13)

Questions?

**Expert
answers
here.**

Campus Copyright Rights and Responsibilities:

A Basic Guide to
Policy Considerations

2005 publication of
the Association of
American Universities,
the Association of
Research Libraries,
the American
Association of
University Presses,
and the American
Association of
Publishers.

*The Congress shall have Power...To promote the Progress of Science and useful Arts, by securing for
limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.*

United States Constitution, Article I, Section 8, Clause 8

United States Constitution, Article I, Section 8, Clause 8



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Permissions and Copyright

AAUP hosts extensive information on copyright and permissions questions as they apply to scholarly communications. Browse the [Copyright & Access](#) section of [Policy Areas](#) for a comprehensive view of these resources. Below are links to a few that are often directly relevant to faculty members' work as authors and instructors.

Permissions FAQ

These FAQs on author responsibilities and copyright guidelines were developed by the members of the AAUP Copyright Committee for use by university presses and authors. They are provided as guidelines that will give you information that may help you fulfill your copyright and permissions obligations. The FAQs were originally drafted in 2006 and revised in July 2008.

[Download the Permission FAQ](#) 

AAUP Member Permissions Information

A directory of individual publishers' permissions information or contact details.
[Go to the Permissions Directory >](#)

Campus Copyright Rights and Responsibilities

Developed in 2005 by AAUP, the Association of American Universities (AAU), the Association of Research Libraries (ARL), and the Association of American Publishers (AAP), this booklet outlines a common understanding regarding the basic meaning and practical significance of copyright for the higher education community.

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www.creativecommons.org

<http://www.ua.edu/copyright.html>

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The University of Alabama Press
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