I. Questions to Consider

A. Is the material protected by copyright?
   1. Assume it is automatically protected if it was written or created after January 1, 1978
   2. There are only two requirements for having something copyrighted:
      a. It must be an original work of authorship or creation
      b. It must be fixed in a tangible form

B. Is the material in the public domain?
   1. All US government publications are in the public domain (but not necessarily state and local government publications)
   2. Ideas, facts, processes & procedures, systems, concepts, methods of operation, principles, discoveries and recipes are in the public domain
   3. The materials where the copyright has expired and not been renewed are in the public domain. The length of copyright protection has changed over the years. The current length of protection is the life of the author plus seventy years. Please consult the following chart for assistance in determining if the material is in the public domain:
      http://www.unc.edu/~unclng/public-d.htm

C. Can the “fair use” factors be applied to this specific use of the material so that it qualifies for an exemption to copyright protection?
   1. The following two tools can assist in conducting a fair use analysis:
      a. Fair Use Analysis Tool (https://www.lib.umn.edu/copyright/fairthoughts)
      b. Fair Use Evaluator http://librarycopyright.net/resources/fairuse
   2. Consider the four fair use factors. All four factors must be thoughtfully weighed against each other.
   3. Complete the Fair Use Checklist and file the checklist with Kyle Wigboldy, Registrar.

D. What is the next step if the material is not in the public domain or does not qualify for a fair use exemption?
   1. Request written permission directly from the copyright holder (if it can be determined). There are several sample copyright permission letters available online.
   2. Request written permission from the Copyright Clearance Center (CCC). (The college has a “pay-per-use” account with the CCC).
      a. Go to www.copyright.com
      b. Search for a publication
      c. Get permission (Categories: available for purchase; available for special order; not available; contact rights holder directly; public domain)
      d. The cost is determined by the amount of royalty fees by the copyright holder plus CCC processing fee of $3.50 per permission request. They will let you know the cost before actually committing to ordering the permission. If you need a username and password, contact Kyle Wigboldy, Registrar.
      e. Permission request letters and responses, as well as permissions from the CCC, should be filed with Kyle Wigboldy, Registrar.
II. Alternatives to Consider

A. Provide links to material that is freely available on the open web or on such sites as Creative Commons (https://creativecommons.org/). Other helpful sites include:
   1. Digital Public Library of America (DPLA) (https://dp.la) (a collection of more than 11,000,000 items from libraries, archives and museums, many of which are in the public domain)
   2. Internet Archive (https://archive.org/index.php) Millions of free books (including audio books, movies, music and more)
   4. New York Public Library. Digital Collections (http://digitalcollections.nypl.org/) (more than 180,000 digital images that are in the public domain)
   5. Web Gallery of Art (http://www.wga.hu/) (over 36,000 reproductions of Western fine art from 1000-1900)

B. Provide links to materials that are available through the library’s databases: articles, ebooks, images. Use links whenever possible!

C. Provide only materials that a fair use analysis indicates may be used without permission. This requires a case-by-case analysis.

D. Select new materials each semester.