What is copyright?
Copyright is a federal law that protects the rights of authors and inventors and enables them to determine how their works are used. The law protects the following types of works: literary, musical (including accompanying words), dramatic (including any accompanying music), pantomimes, choreographic, pictorial (images), graphic, and sculptural. Protection also extends to the following forms of tangible expression: audio and video recordings, photographs including selfies, notes, letters, drawings, doodles, articles, books, music, lyrics, any kind of digital storage and digital documents, tweets, text messages, original social media postings, stone, bronze, and other forms of sculpture. The copyright law seeks to balance the rights of the copyright owner with the rights of the public to use the work. To use a copyrighted work illegally (or to “infringe” upon the copyright holder’s rights) may result in substantial fines and, possibly, imprisonment.

Why do we have copyright?
The reason we have copyright is stated in Article 1, sec. 8, clause 8 of the U.S. Constitution which states: Congress is: “to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries.” Authors and inventors have the right to protect and determine how their materials and discoveries can be used by others.

How do you get something copyrighted?
Materials are automatically protected if they satisfy two conditions:
- It has to be an original work of authorship, and
- It has to be fixed in a tangible form.
Something that does not have a copyright symbol and/or a date can still be protected by copyright.

How long does copyright protection last?
Currently, it lasts for the life of the author plus 70 years.

What are the rights of the copyright holder?
The copyright holder/owner has six exclusive rights: reproduction, distribution, public performance, public display, the right to allow derivative works, and moral rights (for visual arts).

Who owns the copyright?
There are several possibilities, including the following:
- The original creator
- Work-made-for-hire doctrine may apply: someone is paid to create intellectual property
- Institutional policies may apply: some exclusive rights can be shared by the creator and the institution (i.e., professor working for a college)
- A copyright can be transferred to someone else [in whole or in part]
- Students own their own works

What is “fair use?”
Fair use provides some exemptions to copyright protection if materials are used in an educational setting. These exemptions are available without having to ask the owner for permission to use the material. There are limitations as to how the material can be used and the limitations are determined by the “Four Factors of Fair Use.”
These four factors are:

1. **Purpose and character of use**: Why are you using these materials? Is it being used for a commercial use or for a nonprofit educational purpose?

2. **Nature of the work**: What kind of material is it? Is it more factual or more creative? (The more creative a work is, the more it tends to be protected by the law and the courts).

3. **Amount**: How much of the work will you be using in relation to the whole work? Are you using the “heart of the work?”

4. **Effect of use**: Is your use of the work influencing the market value for the copyright owner? Would your use be considered a substitute for purchasing the original work? Is the copy harming the market for the original work?

The analysis of fair use must be done on a case-by-case basis. For assistance in determining whether materials meet the fair use limitations or if you need to request permission to use the materials, it is recommended that you consult *The Fair Use Checklist from Columbia University*. This checklist is available at the following link: [https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html](https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html). (You may need to click on the link two or three times to get to the checklist). A *Kuyper College Fair Use Checklist* is available at [https://kuypercentral.kuyper.edu/forms/forms-by-department/](https://kuypercentral.kuyper.edu/forms/forms-by-department/).

Fair use does require giving proper bibliographic citations and credit to the copyright holders. Failure to do so will usually be considered an act of plagiarism.

**What is “public domain?”**

Public domain refers to those works that are not protected by copyright. These works may be used without limits and without seeking permission to use them. All federal government (but not all state and regional) publications are not protected by copyright. General information such as facts, numbers, and ideas are in the public domain. Works that have had their copyright protection expire are also in the public domain. Consult the following chart for assistance in determining when works pass into the public domain. [http://www.unc.edu/~unclng/public-d.htm](http://www.unc.edu/~unclng/public-d.htm)

For a more detailed analysis and explanation of copyright compliance and policies please consult the following document: *Copyright Compliance for Kuyper College*. [https://kuypercentral.kuyper.edu/forms/forms-by-department/](https://kuypercentral.kuyper.edu/forms/forms-by-department/)

**Questions?**

Please contact: Kyle Wigboldy, Kuyper College Registrar