

# Copyright and Fair Use in the Digital Age

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# Copyright Basics

- Exists to “[t]o promote the Progress of Science and useful Arts” ([U.S. Constitution](#))
- Copyright protects “original works of authorship fixed in any tangible medium of expression” ([17 U.S. Code § 102](#))
- Requirements: independent creation, modest amount of creativity
- Not required: novelty, intent to be original, © symbol

# Exclusive Rights

1. Reproduce the copyrighted work
2. Prepare derivative works based upon the copyrighted work
3. Distribute copies to the public by sale or other transfer of ownership, or by rental, lease, or lending
4. Perform the copyrighted work publicly
5. Display the copyrighted work publicly (includes “the individual images of a motion picture or other audiovisual work”)
6. Perform the copyrighted work publicly by means of a digital audio transmission ([17 U.S. Code § 106](#))

# Exceptions for Educators:

## § 110 (1)

“[P]erformance or display of a work **by instructors or pupils** in the course of **face-to-face teaching activities** of a **nonprofit educational institution**, in a **classroom or similar place devoted to instruction**, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made” ([17 U.S. Code § 110](#))

# Exceptions for Educators:

## § 110 (2): The TEACH Act

“[E]xcept with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or a performance or display that is given by means of a copy or phonorecord that is not lawfully made and acquired under this title, and the transmitting governmental body or accredited nonprofit educational institution knew or had reason to believe was not lawfully made and acquired, the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission, if—

- (A) the performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution;
- (B) the performance or display is directly related and of material assistance to the teaching content of the transmission;
- (C) the transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—
  - (i) students officially enrolled in the course for which the transmission is made; or
  - (ii) officers or employees of governmental bodies as a part of their official duties or employment; and
- (D) the transmitting body or institution—
  - (i) institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and
  - (ii) in the case of digital transmissions—
    - (I) applies technological measures that reasonably prevent—
      - (aa) retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and
      - (bb) unauthorized further dissemination of the work in accessible form by such recipients to others; and
    - (II) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination” ([17 U.S. Code § 110](#))

# Exceptions for Educators:

## § 107: Fair Use

“[T]he fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.” ([17 U.S. Code § 110](#))

# Exceptions for Educators:

## § 107: Fair Use (cont.)

- 1)** The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes
- (2)** The nature of the copyrighted work
- (3)** The amount and substantiality of the portion used in relation to the copyrighted work as a whole
- (4)** The effect of the use upon the potential market for or value of the copyrighted work ([17 U.S. Code § 107](#))

# More Information About Exceptions for Teaching

<http://blogs.library.duke.edu/scholcomm/2006/12/26/copyright-exceptions-for-teaching/>



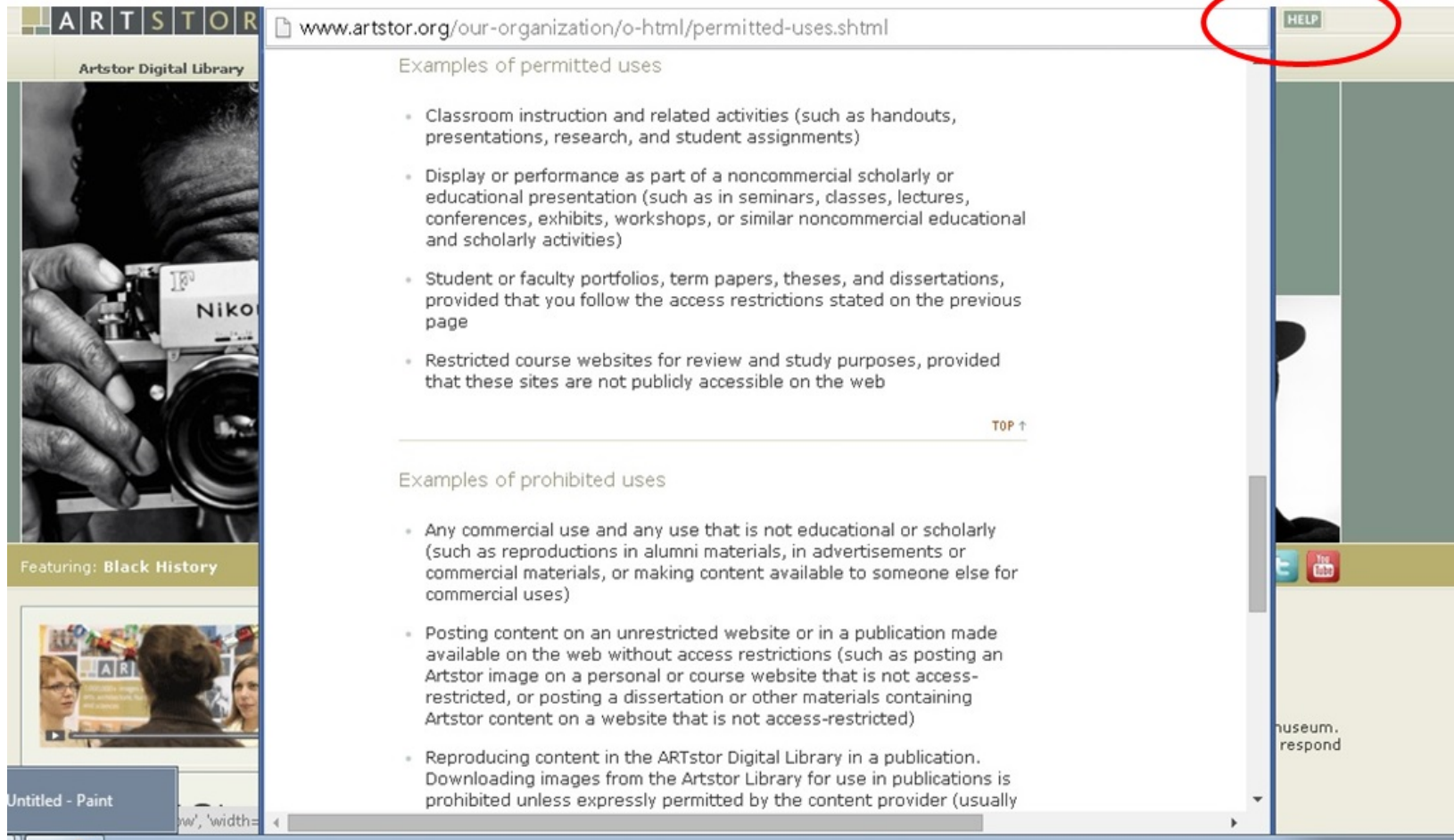
# General Guidelines

- Assume that anything created after 1923 is under copyright
- If it won't ever leave your classroom, it's probably okay (**exception:** teaching materials)
- When in doubt, ask for permission!
- CC Search: <http://search.creativecommons.org>

# Library Services/Resources

- Copyright Subject Guide:  
<http://lib.guides.umd.edu/copyright>
- Course Reserves Copyright Guidelines:  
<http://www.lib.umd.edu/access/reserves-copyright>
- ELMS Course Media Reserves:  
<http://www.lib.umd.edu/nonprint/services/elms-request-page>

# Using Library Databases



www.artstor.org/our-organization/o-html/permitted-uses.shtml

Artstor Digital Library

Examples of permitted uses

- Classroom instruction and related activities (such as handouts, presentations, research, and student assignments)
- Display or performance as part of a noncommercial scholarly or educational presentation (such as in seminars, classes, lectures, conferences, exhibits, workshops, or similar noncommercial educational and scholarly activities)
- Student or faculty portfolios, term papers, theses, and dissertations, provided that you follow the access restrictions stated on the previous page
- Restricted course websites for review and study purposes, provided that these sites are not publicly accessible on the web

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Examples of prohibited uses

- Any commercial use and any use that is not educational or scholarly (such as reproductions in alumni materials, in advertisements or commercial materials, or making content available to someone else for commercial uses)
- Posting content on an unrestricted website or in a publication made available on the web without access restrictions (such as posting an Artstor image on a personal or course website that is not access-restricted, or posting a dissertation or other materials containing Artstor content on a website that is not access-restricted)
- Reproducing content in the ARTstor Digital Library in a publication. Downloading images from the Artstor Library for use in publications is prohibited unless expressly permitted by the content provider (usually

HELP

Featuring: **Black History**

Untitled - Paint

# Questions? Contact Me!

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