




How NOT to Be an Accidental Pirate: Fair Use and Copyright for Faculty

Carlos Luna, Sarah Harmon and the Textbook Affordability
Subcommittee of the Academic Senate



How NOT to Be an Accidental Pirate: Fair Use and Copyright for Faculty
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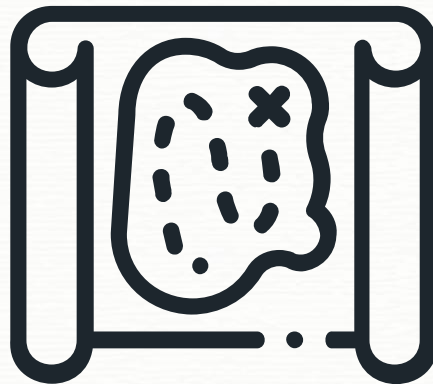
Aaarrrrgh! Thar be treasure!

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All the Legal Stuff

What if...

An instructor finds a chapter or article in a copyrighted publication that they want to use in their class. They have it in physical (book) form, but it's also available online via the Library's subscription services. They need to find a way to share it with their students.

What should they do?

- A. Photocopy the article/chapter and hand it out to their students.
- B. Scan the article/chapter and put the PDF on their Canvas page.
- C. Check with the Librarians to see if there is a way to share the article/chapter with the students in the Canvas shell.
- D. Go find something else to use.

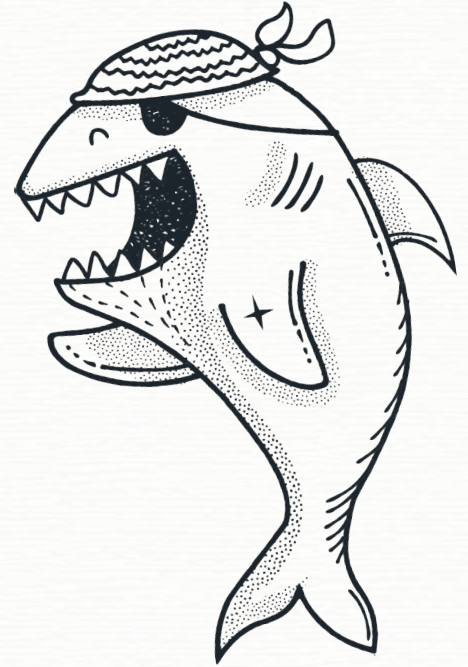
Think about this as we go into the next few slides!



What is Copyright?

Copyright grants a set of exclusive rights to creators, which means that no one else can copy, distribute, perform, adapt or otherwise use the work in violation of those exclusive rights. This gives creators the means to control the use of their works by others, thereby incentivizing them to create new works in the first place.

The person who controls the rights, however, may not always be the creator. It is important to understand who controls the exclusive rights granted by copyright in order to understand who has authority to grant permissions to others to reuse the work.



What are Creative Commons Licenses?



Creative Commons licenses provide a standard way for content creators to grant someone else permission to use, modify, and share their work.

Creative Commons Licenses Quick Reference

		COPY & PUBLISH	ATTRIBUTION REQUIRED	COMMERCIAL USE	MODIFY & ADAPT	CHANGE LICENSE
	Public Domain	✓		✓	✓	✓
	Attribution (CC BY)	✓	✓	✓	✓	✓
	Attribution-ShareAlike (CC BY-SA)	✓	✓	✓	✓	
	Attribution-NoDerivs (CC BY-ND)	✓	✓	✓		✓
	Attribution-NonCommercial (CC BY-NC)	✓	✓		✓	✓
	Attribution-NonCommercial-ShareAlike (CC BY-NC-SA)	✓	✓		✓	
	Attribution-NonCommercial-NoDerivs (CC BY-NC-ND)	✓	✓			✓



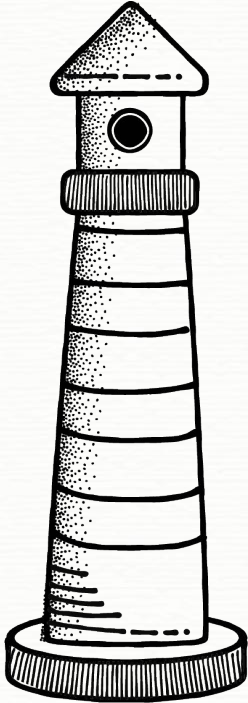
What is Fair Use?

- Right to use copyrighted material without permission or payment under some circumstances.
- Includes criticism, parody, comment, news reporting, teaching, scholarship, and research.

The law is written **vaguely** to allow flexibility, **however** this leaves the individual responsible for evaluating fair use and liability.



How to Establish Fair Use



Four aspects to consider:

- The ***purpose*** and character of the use, including whether the intended use is for commercial VS. for nonprofit educational purposes.
- The ***amount*** and ***significance*** of the portion used in relation to the entire work.
- The ***nature*** of the copyrighted work.
- The ***effect*** of the use upon the potential market for or value of the original.

Of course, it must be ***legally acquired copy***.

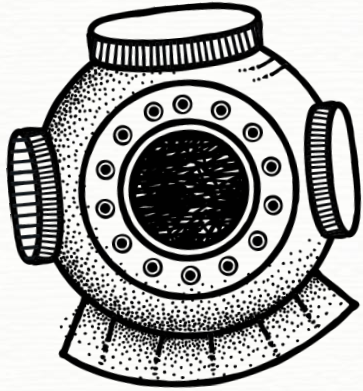
What is the Teach Act?

Allows use of copyrighted works in distance learning.

- Must be lawfully made and acquired copy of the work
- Must be a regular part of a systematic mediated instructional activity made by, or under the direction or supervision of, a teacher
- The work must **not** be something produced or marketed primarily for use in the online distance education market
- Must use technology that reasonably limits the student's ability to retain or further distribute the materials
- Must use a "reasonable and limited" portion of the work



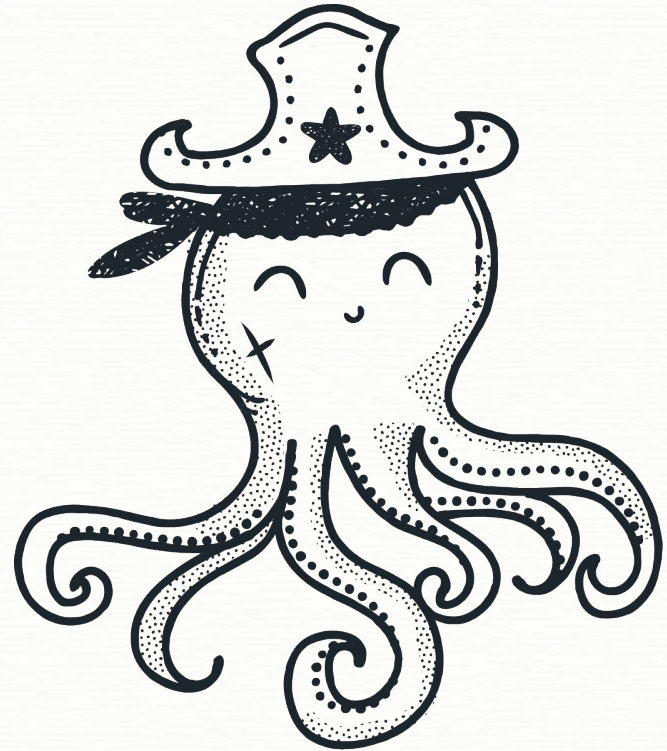
Ask Yourself:



1. Was the work you plan to use legally made and acquired?
2. Do you have permission from the work's copyright holder to use the work the way you want?
3. How will you use the work?
 - a. For a class (either in-person or online)?
 - b. To show as part of a public event (student clubs, speaker series, etc.)?

Why is this important?

- Accessibility—in both senses
 - Who can access this work?
 - Can those who use adaptive technology use and interact with this work?
- Liability—for the college and for you!
- Showcasing responsible use of materials in an ethical manner
 - We don't want our students plagiarizing, so... 😊





What if...






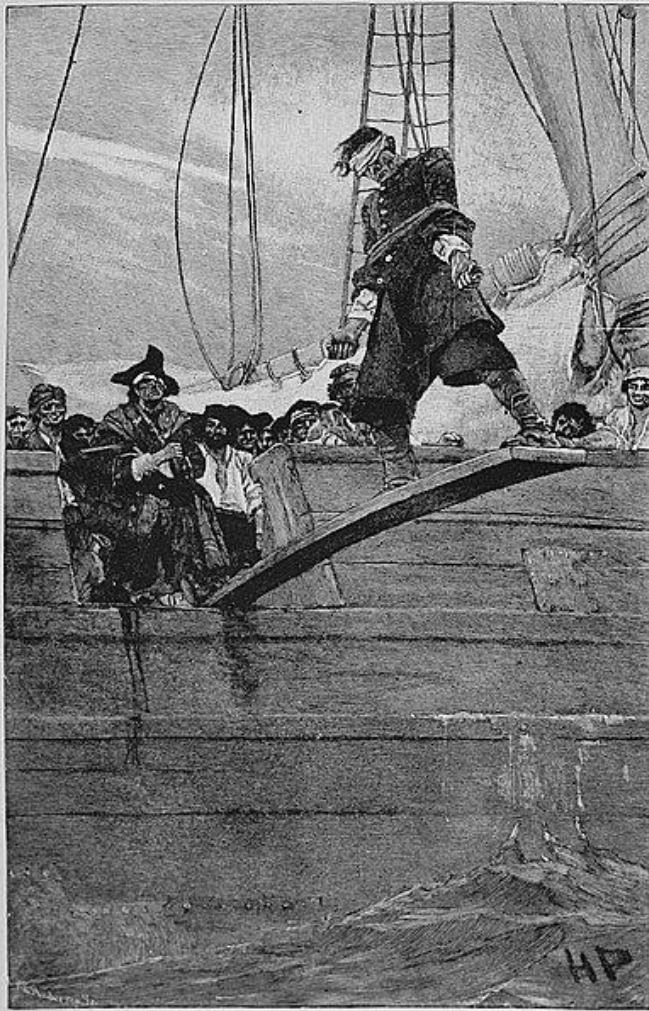
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- C. Check with the Librarians to see if there is a way to share the article/chapter with the students in the Canvas shell.
- D. Go find something else to use.

The answer is: C!

- Giving photocopies to students may violate copyright law.
 - If you need to create a course packet, that's where the Bookstore can help.
 - Giving PDFs to students causes significant problems. There are accessibility (as in ADA-based) issues, plus giving students the PDF may violate copyright law.
 - You could go find something else—but there may be a way to use what you want!
- 
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- 



Don't be pirating materials...
...or it's the plank for ye!

Walking the Plank, published in Pyle, Howard (August–September 1887). "Buccaneers and Marooners of the Spanish Main". *Harper's Magazine*. Public domain via [WikiCommons](#).



How do you find
material?

Open-Source and Legally Free Materials

Open-Source

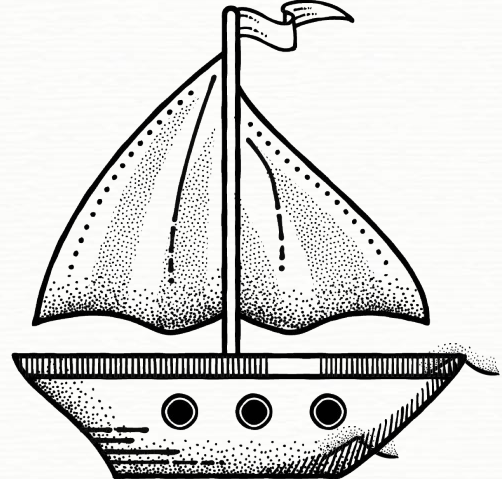
- OER Textbooks
- Images on Pixabay, Wikimedia, Unsplash
- Items licensed under Creative Commons that allows derivatives

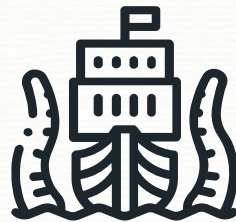
Public Access

- Government documents
- YouTube or Vimeo videos (check the license!)

Library Resources

- Article databases
- Streaming video services
- e-Books





Streaming Videos for Online Education

- **Films on Demand**

- Great for television documentaries (HBO, PBS, Discovery+, etc)
- Includes public presentation rights

- **Kanopy**

- Great for independant and international films and for film/television documentaries
- Includes films from the Criterion Collection and from the Great Courses series
- Many include public presentation rights

- **Swank**

- We can license 25 titles per fiscal year—just ask!
- Good for Hollywood movies or movies we can't get through Films on Demand or Kanopy

More Streaming Video Options

- Not included by those providers?
 - Sometimes the Library is able to work directly with the rights holders to obtain access.
 - Ask us for help!



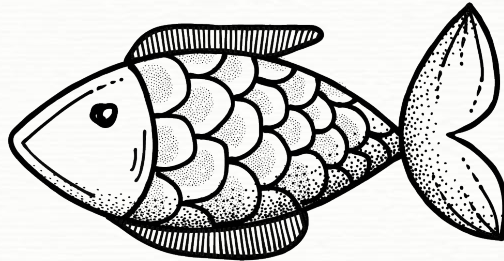
How do I Give Students Access to Digital Articles, etc.?

- Links in Canvas to the article
 - Use the permalink!
- Use Library e-resources
- Do not put PDF versions of the articles on your Canvas shell--**unless** you have direct permission to do so (e.g. author's/publisher's permission, Creative Commons license)



What if I Want to Have a Packet of Material for My Students?

- Contact the Bookstore to create a reader!
 - They request copyright clearance and work with publishers
- Sign up for the ZTC Adopter Program!
 - Get support in finding OER and library resources
 - Get paid! 💵 💰

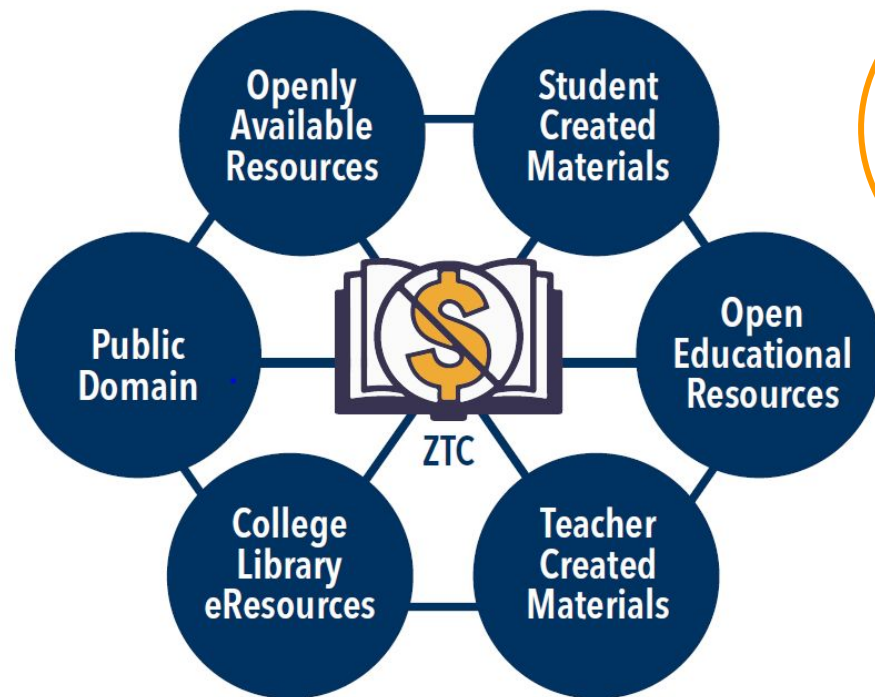




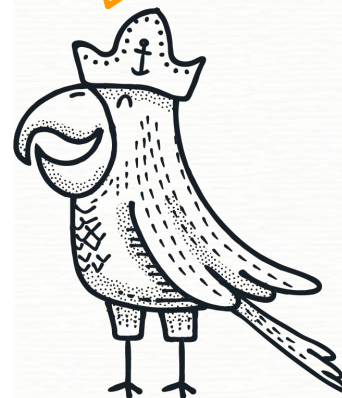
**What about OER and
ZTC materials?**



How can I make use of zero-textbook cost materials?



Squawk!
Ask your Librarian
or OER/ZTC
Coordinator for
more info!
Squawk!



Different Licenses, Different Aims

Open Educational Resources (OER)

- Creative Commons licensing (typically)
- Open for sharing to everyone
- Print copies are easily attainable by all

Library-based subscriptions

- Typically copyrighted, but shareable through the DOI or Permalink
- Limited printing options

Public access

- Open for sharing to everyone
- Best for online use only



Logo by [Creative Commons](#), [Public Domain](#)



Permalink

Logo by Gabrielloator, Public domain, via [Wikimedia Commons](#)



Logo by art designer at PLoS, modified by Wikipedia users Nina, Beao, and JakobVoss, CC0, via [Wikimedia Commons](#)

Different Licenses, Different Aims

Openly available resources

- General webpages, YouTube videos, etc.
- Open for sharing to everyone (typically)
- Best for online use only



Photo by [Igor Miske](#) on [Unsplash](#)

Teacher-created resources

- Respect whatever licensing is being used—including if it's copyrighted
- If it's your resources, then you choose the licensing (hopefully it's Creative Commons!)



Photo by [Annika Gordon](#) on [Unsplash](#)

Student-created resources

- Respect whatever licensing is being used—including if it's copyrighted
- When you create materials with your students, they must give permission before you share it!

Have ye any
questions,
mateys?





Contact Us!



Sarah Harmon, OER/ZTC Coordinator

- ZTC Adoption
- Help finding OER textbooks


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Carlos Luna and Adriana Lugo, Librarians



- Help finding library-based sources
- Help accessing library e-resources

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lugo@smccd.edu



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