

“I found that image online.”

Can I use it in my document?

Visual Creative Works (“it”) and Copyright Law Quick Tips

Scenario	Can I use it?
I created it myself† and it does not mimic another piece (i.e., I did not copy another’s creative work*).	Yes. You are the copyright owner.
I’m using it on lesson plan materials for my class.	Yes. This is “educational use.” However, they cannot be uploaded to online public sites like blogs, websites, social media, YouTube, etc.
I found it online and downloaded it.	No. Just because you found it online doesn’t mean it is free to use. The copyright owner is unknown.
It came with the software program.	Yes, with some exceptions. Software that offers “stock” assets typically requires an additional subscription fee.
I found it on a “free images” website.	No. Most of these sites have hidden clauses that remove themselves from any liability stemming from use of images found on their site. This puts in question the image’s true copyright status.
I purchased it from a photo stock vendor.	If purchased as “royalty free”—yes. If purchased as “rights managed”—usage is severely restricted.
It’s licensed as “creative commons.”	Yes, as long as the image is not used for resale or commercial distribution.
It’s in the “public domain.”	Yes, with some rare exceptions. The rights on some works may have exclusive intellectual property rights (e.g., Mickey Mouse).
I left the watermark intact.	No. A watermark is an official notice that the image is not free and is protected by copyright law.

Intended use	What laws apply?
I’m using it as part of a lesson plan for a class.	Educational Use
It’s for a presentation to parents.	Commercial Use
It’s going on fliers that will be posted on campus.	Commercial Use
I’m writing an article about it.	Editorial/Fair Use
It’s being used in my research project.	Fair Use
The creator died more than 70 years ago.	Public Domain

*Creative Works include, but are not limited to, photographs, illustrations, graphics, charts, paintings, drawings, sculptures, or any product created by an artist or craftsperson—both physical and digital. This flyer focuses on visual creative works. Other forms of creative works, such as drama, music, and writing, have different and stricter restrictions.

†If you received compensation to create the work, it is then considered “work-for-hire” and the hiring entity is the copyright holder. You may only use it for self-promotion purposes without the copyright holder’s permission.

Using Images for Print, Web, and Onscreen Presentations

In today's environment of quickly grabbing images off the web with a simple right-click of the mouse, we have seen an increasing number of copyright violations appearing in materials being created by the College's faculty and staff. We hope to help you make better (and legal) choices when choosing images you intend to use in your materials.

First, for the purpose of this document, we define "images" to include all visual creative works (photographs, illustrations, graphics, charts, paintings, drawings, sculptures, or any product created by an artist or craftsman—both physical and digital). Second, simply giving credit to the original creator does NOT satisfy copyright requirements.

Are all images protected by copyright laws?

Yes! The moment the shutter opens, the brush touches the surface material, the sentence is written, or the clay begins its mold, it is instantly protected by copyright law. The creator does not need to file for protection as it happens automatically. The only exception to this is works created by government agencies (this includes NASA, the Smithsonian, and the National Archives). Also, works do not need to be stamped with various copyright notices to be protected.

When do images enter public domain?

While it's true that once an image enters public domain you no longer need to acquire copyright permissions, not all images that qualify are included. Images typically enter public domain 70 years after the death of the creator. However, it is possible that the copyrights of certain creators are gifted to their family and then passed down through generations, which prevents these pieces from entering public domain. Doing a quick web search in these instances is advised.

When do I need to obtain copyright permissions?

There are a few copyright buckets that govern different uses. The types that govern 95% of the material produced by us fall into either Commercial Use or Education Use.

Commercial Use: Outside of class instruction, most uses fall into the Commercial Use category. All images used in this capacity require obtaining copyright permissions unless said images qualify as Creative Commons (see below). The fines for copyright violations in this category are costly, potentially falling into the "treble-damages" range. A high percentage of original creators are diligent about protecting their copyrights, so the chances of getting "caught" increases each day with the explosion of new copyright-tracking software. Even replicating someone else's work is considered a copyright infringement.

Educational Use*: The copyright laws are a bit relaxed when images are used by nonprofit education institutions in the context of "instructional." To be specific, you do not need to obtain copyright permissions if the use is for teachers delivering learning instruction to students, or for students creating course-related assignments. The key is it must be for the purpose of instruction. Once the teacher-student-learning relationship is removed, Educational Use no longer qualifies.

*Most instances of Educational Use can also be considered Fair Use.

Note: There are certain instances where Educational Use does not apply. For example, if a student-produced project is posted on YouTube or other social media, it is considered commercial use.

Fair Use: "Fair use is a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. Section 107 of the Copyright Act provides the statutory framework for determining whether something is a fair use and identifies certain types of uses—such as criticism, comment, news reporting, teaching, scholarship, and research—as examples of activities that may qualify as fair use."

"More Information on Fair Use" [copyright.gov](https://www.copyright.gov/fair-use/more-info.html), June 9, 2022, <https://www.copyright.gov/fair-use/more-info.html>.

Bottom line—most material distributed by the College that is not instructional or research, does not qualify as fair use.

Can I use images licensed under Creative Commons?

Creative Commons (CC) is a public copyright license governing some rights-reserved works where the creator allows users to share, use, and build upon a work the author created, but prohibits the use of those works in a "resale" capacity. For example, you can use the piece on your presentation, but you cannot print it on a cup intended for sale in the bookstore or for distribution at an event.

How can I get images to use?

The Office of Marketing and Communications has subscriptions to stock image sites. Use our job request form or email marketing@landmark.edu to see if we can help.