

Guide for Using Copyrighted Materials in Courses and Related Notifications (For Instructors)

Reference

- Paragraphs 2 through 10 of Article 25 of the Copyright Act and Articles 2 and 9 of its Enforcement Decree
- *The Criteria for Compensation for Use of Copyrighted Materials for the Purpose of School Education* (Public Announcement by the Minister of Culture, Sports and Tourism No. 2014-8, Feb. 26, 2014)
- Compensation Payment Agreement for Use of Copyrighted Materials in Courses (Comprehensive)
- Articles 5 and 9 of the Berne Convention
- *Guideline for the Use of Copyrighted Materials for the Purpose of School Education* (June, 2015, Consultative Group for Guidelines for the Use of Copyrighted Materials for the Purpose of Institutional Education) (Attached)

Guide for Use of Copyrighted Materials in University Courses and Related Notifications

- **(Subject of Application)** For purpose of provision to face-to-face and online courses targeting enrolled students (not including students on leave of absence) offered as part of a curriculum of an educational institution established by special laws and the Higher Education Act (hereinafter 'university*')

* Limited to universities that have signed an agreement with the Korea Reproduction and Transmission Rights Association (hereafter, Association) to comprehensively compensate for the use of copyrighted materials for the purpose of institutional education.

- Application limited to courses facilitated by a faculty member (such as full-time faculty, adjunct faculty, visiting faculty, lecturer) charged with providing education at a university to enrolled students attending the courses (students on leave of absence are expressly excluded)

o **(Method of Use)** Partial use (reproduction, distribution, performance, exhibition, or public transmission) of copyrighted material in the course

(Under certain, limited conditions, using whole works is permissible when doing otherwise is impractical*)

* For example, short poetry or poems and songs; short lyrics; short video images; and paintings or photographs

- Use of domestic and international works that have entered into the public domain in the Republic of Korea is permitted (Art. 3 of the Act)

- Works may be used by means of translation, arrangement or adaptation [Art.36(1) of the Act]

o **(Condition of Use)** Detailed submission of use of copyrighted works, payment of remuneration according to the public announcement on compensation criteria, indication of source, application of technological protection measures upon transmission of copyrighted works, etc.

- **(Detailed submission of Use)** Institution and faculty must cooperate when selected as respondents for the factual survey executed annually by the Association.

- **(Payment of Remuneration)** Payment is made annually by the university according to the comprehensive agreement.

- **(Indication of Source)** Attribution recognizing the name (or penname, etc.) of the author and the original source shall be made without fail.
- **(Technological Protection Measures)** Measures shall be taken when transmitting copyrighted materials during, for example, an on-line course.
- **(Access Restrictions)** Access shall be limited to enrolled students who are logged onto the learning management system (LMS).
- **(Duplication Preventing Tools)** Measures shall be taken to prevent duplication by anyone other than enrolled students attending on-line courses.
- **(Display of Warning)** Warnings shall be displayed in on-line lecture videos and the learning management system (see below)
 - o **(Scope of Allowance)** 'partial use' and 'to the minimum extent deemed necessary'

Classification of Works	Partial Use and Minimum Extent Deemed Necessary	Note
Text-Based Works (Theses, novels, essays, poems, etc.)	10% of the whole	For details, see 'scope of copyrighted materials allowed for use in courses' in the attached guidelines (pp. 19-21)
Musical Works	20% of the whole (not to exceed 5 minutes)	
Audiovisual Works	20% of the whole (not to exceed 15 minutes)	
Graphic Works (Photographs, paintings, etc.)	May be used in their entirety	

- o **(Exceptions)** Cases which require prior independent permission of the owner of copyright

- When the use of a work is deemed to unreasonably prejudice the interests of the copyright holder by exceeding the permitted limit, or when seen in light of the type and use of the work, or the number of copies and the nature of reproduction

Type and use of work	Number and nature of reproduction
<p>When the work is being used beyond the original purpose of the course</p>	<p>When the number of copies exceeds the quantity limit, which in principle is the total number of both students attending the course and the faculty members(s) teaching that course</p>
<ul style="list-style-type: none"> · Creating, reproducing, and distributing lecture material or PowerPoint material that summarizes an entire book · Use of copyrighted work for 'non-curricular learning' or 'special lectures for the public' · Use of copyrighted work in 'pre-school lectures' · KOCW lectures that are open to graduates and the public, open lectures of correspondence colleges and distant colleges, repetitive viewing by graduates, special lectures for exams by 'schools and educational institutes', etc. 	<ul style="list-style-type: none"> · Use by multiple learners, such as by reproducing abundant copies (duplicating more than one copy per student or distributing duplications to an entire educational institution) · When reproduction is done in such a manner that the duplicates result in market competition with the original product (examples include copying and binding to make a book appear identical to the product in the market, printing paintings or photographs in a sufficiently high quality so as to enable them to be appreciated as

Type and use of work	Number and nature of reproduction
<ul style="list-style-type: none"> · Autonomous activities that are not based on the educational curriculum of the university (club activities or research society activities) · Duplication of musical scores or recordings to create anthologies or compilations for use during class time · Use of audiovisual works in its original form for simultaneous broadcasting or transmission · Exhibition of copyrighted images on the walls of classrooms or school exceeding the time period deemed necessary · Recording sounds or images of a broadcast program for the purpose of preservation in a storage device 	<ul style="list-style-type: none"> artistic works, or copying musical scores for a performance) · Repetitive reproduction (repetitively duplicating the same column or running story from a newspaper or magazine for every class)

※ For specific methods or terms of intra-institutional use of copyrighted works, refer to the 'guidelines' of the Korea Reproduction and Transmission Rights Association or call the Association (02-2608-2800) with any inquiry

[Reference] Example of copyright warning notices

The copyrighted work used on this website as class material is being legitimately used in accordance with the agreement entered into with the Korea Reproduction and Transmission Rights Association, based on the compensation plan for use of copyrighted works for the purpose of institutional education stipulated in Article 25 of the Copyright Act. Because the use of the material exceeding the agreed limit may infringe upon the Copyright Act, sharing or disclosing the material, as well as using it for any other purpose, is prohibited.

. . . 20 .

University, Korea Reproduction and Transmission Rights Association

Other Issues

A. List of overseas publishers to which compensation is paid for university education purposes : see [Attachment 2]

(1) List of overseas publishers to which compensation was provided by universities throughout the Republic of Korea for the use of copyrighted works for the purpose of institutional education during the 2014 ~ 2018 period (However, this data is provided pursuant to a request from the institute that has signed the agreement regarding copyrighted works for the purpose of institutional education, and use of this data for other purposes or provision of this data to a third party is prohibited)

B. Guide for use of foreign copyrighted works in university courses

(1) Based on Article 5 paragraphs 1 and 2 of the Berne Convention, which

provides for the national treatment principle and the lex originis rule, and Article 25 of the Copyright Act, the Copyright Act of the Republic of Korea shall be the applicable law in cases when an international copyright dispute is raised by a non-Korean citizen regarding his/her copyrighted work that are used for purpose of utilization in domestic courses

(2) Since the copyright holder's exercise of individual copyright is restricted due to the compensation system for use in courses, which is a provision that limits copyright ownership under the Copyright Act, partial use of copyrighted works that are made public may be used without permission for use, and foreign copyrighted works may also be used in the same way as domestic copyrighted works when abiding by the guidelines in accordance with treaties to which the Republic of Korea has become a contracting party or has joined as a Member and also with related statutes

Attachments:

1. Guideline for Use of Copyrighted Works for the Purpose of Institutional Education
2. List of overseas publishers to whom compensation is paid for purpose of institutional education (as of March 12, 2020)

End of list

**Guideline for Use of Copyrighted
Works for the Purpose of
Institutional Education**

the preface omitted

4. Scope of Copyrighted Materials Allowed for Use in Courses

(1) Requirements for the use of copyrighted works to be permitted for course purposes: 'partial use' and 'to the minimum extent deemed necessary'

o Educational institutions stipulated in Article 25 paragraph 2 of the Copyright Act may 'use part' of the works already made public where deemed necessary for the lessons and for the purpose of support thereof, provided that if using the whole work is inevitable in light of the character, purpose, and form of the work, the work may be used in its entirety.

(2) Text-Based Works

o In cases of text-based works such as theses, novels, essays, poems, etc., using 1% or less of the whole work is subject to fair use, whereas using more than 10% of the whole work is not covered under these guidelines. In such cases, prior individual permission for its use should be obtained from the copyright holder.

- Reproducing and distributing an article from an academic journal or an entire chapter (one entire unit) from a university textbook, academic material, specialty publication, etc. is covered under the present guidelines. When using two or more chapters or 10% or more from a university textbook, academic material, specialty publications, etc., prior individual permission shall be obtained from the copyright holder for such use.

o Faculty may personally make, or request, reproduction of one copy of a part of a book, an article included in a periodical, or charts, graphs, and diagrams contained in a book or periodical for research purposes or use in a taught course or preparation thereof.

- Reproduction quantity shall be to one copy per student. Reproduction of the whole work resulting in the inclusion of parts that are not necessary for the purpose of the lesson or reproducing several copyrighted works to create a compilation to be published in the form of a single book is not permitted, and individual use permits should be obtained in advance from the copyright holder.

o Creating teaching material (including PowerPoint course materials) by summarizing the contents of text-based works such as academic books or university materials falls under within the permissible scope of application of the present guidelines.

- Reproducing and distributing materials for teaching or PowerPoint lectures which were produced by summarizing the contents of one's own or another's text-based works falls within the scope of application of these guidelines.

- However, any use of copyrighted works that does not satisfy either the abovementioned 'partial use' or 'to the minimum extent deemed necessary' requirements shall obtain prior permission for use from the copyright holder. For example, reproducing and distributing materials for teaching or creating PowerPoint lectures which have been produced by summarizing an entire book is prohibited. In such cases, prior individual permission for such use shall be obtained from the copyright holder.

(3) Musical Works

o Use of 5% or less (up to 30 seconds) of the entire musical works is subject to fair use, whereas use exceeding 20% (less than 5 minutes) of the musical works is not permissible under these guidelines. In the latter case, individual use permits should be obtained in advance from the copyright holder.

o Reproducing several copies of musical score excerpts from musical works is permitted. However, in this case, the number of copies shall not exceed the number students, and such excerpts shall not constitute a performable unit.

- Reproduction shall be limited to one copy per student. Reproduction in whole so as to contain parts that are not necessary for the purpose of the lesson or reproducing several copyrighted works and producing a compilation to be published in the form of an anthology of works is not permitted, and individual use permits should be obtained in advance from the copyright holder.

o Because reproducing musical works for the purpose of performance is not allowed, reproducing one entire unit for performance is not permitted, and individual use permits should be obtained in advance from the copyright holder.

- In case of 'musical works,' these guidelines can be applied when reproducing musical works (music, score) for the purpose of teaching, but individual use permits should be obtained in advance from the copyright holder when reproducing for the purpose of giving performances.

o Reproducing and distributing musical scores that are out of print and difficult to purchase on the market for the purpose of class teaching is permissible under these guidelines.

- It is a fundamental rule that copyrighted works that have been made public shall be 'used in parts' even when deemed necessary for the purpose of use in class. However, when there exist inevitable circumstances such as the musical score being out of print, such use falls under the scope of application of these guidelines because the act of using the score by reproducing and distributing the whole cannot be seen as unfairly harming the economic interests of the copyright holder.

(4) Audiovisual Works

o Use of 5% or less (up to 30 seconds) of the entire audiovisual works is subject to fair use, whereas use exceeding 20% (or 15 minutes) of the audiovisual works is not subject to the application of these guidelines. In the latter case, individual use permits should be obtained in advance from the copyright holder.

- While establishing the rule of making only partial use of audiovisual works, these guidelines apply to the special circumstances where the audiovisual works cannot but be used in its entirety from a practical point of view due to the special techniques and substantial effort that is required for editing the works.

o Editing an audiovisual work and processing it into class material, using the edited part by inserting it into a PowerPoint, or watching a certain part of a movie repeatedly to learn English all fall **under the scope of application** of these guidelines.

- However, using the whole audiovisual work as class material during class time does not fall under the scope of application of these guidelines for the reason that it is not a 'partial use' of the work. Rather, when the requirement stipulated in Article 29 paragraph 2 of the Copyright Act that no benefit shall be received in return is not fulfilled, individual use permits should be obtained in advance from the copyright holder.

o Faculty use of audiovisual works in its original form for simultaneous broadcasting or transmission for teaching purposes falls outside the permissible scope of these guidelines, and individual use permits should be obtained in advance from the copyright holder.

- Broadcasting organizations shall have the right to authorize their broadcasts to rebroadcast simultaneously (Article 85 of the Copyright Act). Simultaneous broadcasting refers to the re-run of other broadcasting service providers' broadcasting at the same time as its reception. Non-simultaneous re-run, which fixes the current broadcasting by recording for subsequent transmission is regulated by the right to reproduction under the Copyright Act, and is a concept distinct from simultaneous broadcasting.

(5) Image Works

o In light of their nature or the purpose and form of use of images such as photographs, using the whole work is, in principle, deemed inevitable. Therefore, even when used in its entirety, such use of image works falls within the scope of application of these guidelines.

the rest omitted