

# Copyright Guidance<sup>1</sup>

*Just because you found it on the internet doesn't mean you can use it.*

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- Copyright law protects original works of authorship, including literary, written, dramatic, artistic, musical, photographs, video and certain other types of work. Copyright protection extends to both published and unpublished works.
- Copyright is an automatic right, which means that copyright protection attaches as soon as the original work is created.
- A copyright notice or warning is not necessary to indicate copyright protection and the author of the work is not required to file any paperwork to obtain a copyright, unlike a trademark or patent.

Copyright protection does not extend to works in the public domain, such as slogans, words, names, unoriginal works, or government works; however, Google and other search engine images are **not** public domain images. Search engines assist users in locating content, but they are not a collection of public domain or copyright-free works.

## ***The Fair Use Exception:***

- Fair use is a legal exception to the exclusive rights an owner has for his or her copyrighted work.
- The Fair Use Doctrine allows for limited and reasonable uses of copyrighted work as long as the use does not interfere with the owners' rights or impede their right to do with the work as they wish.
- The purpose of this doctrine is to allow the use of copyrighted works without permission for certain purposes that benefit the public.
- The fair use of a copyrighted work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use) or research is not an infringement of copyright.
- The following four factors are relevant in analyzing whether the use made of a work in any particular case is within the fair use exception:
  - (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.

AFPM is a not-for-profit corporation and its conferences are intended to be educational; however, there is no way to determine in advance of a legal challenge whether the use of copyrighted material meets the requirements for the Fair Use Doctrine. Therefore, we advise presenters to adopt a conservative approach to the use of photographs, videos, cartoons, and quotes used in AFPM presentations and presume that they do not fit within the fair use exemption.

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<sup>1</sup> This guidance provides only a brief overview of copyright law and is not an adequate substitute for specific legal advice. Individuals furnishing materials to AFPM are responsible to ensure that the materials they provide respect the original author's copyright and comply with all applicable laws.

Public domain repositories of images and certain stock photo services are not subject to the limitations of the fair use exception and may be used freely.

### **Images without Copyright:**

- You can limit your Google & Bing search results to only public domain images by:
  - selecting “Usage Rights” from the Search tools on Google; or
  - clicking on “License” in the menu below the search box and selecting “Public Domain” on Bing.
- However, Google and Bing have a general disclaimer on all images (“Images may be subject to copyright.”), **so it is imperative that you check the “Terms” of each image you find on Google or Bing, even if you use the “Public Domain” search filter.**

### **Other Resources:**

The images on these websites may or may not be free of charge. As stated above, it is imperative that you check the “Terms” for each of these websites to understand the limitations on the use of the images.

Terms of use for the following websites are linked in the footnotes.

<a href="https://pixabay.com/en/service/terms/">Pixabay.com<sup>2</sup></a>	<a href="https://www.flickr.com/terms/">Flickr.com<sup>3</sup></a>
<a href="https://freerangestock.com/terms_of_use.php">Freerangestock.com<sup>4</sup></a>	<a href="http://www.freedigitalphotos.net/images/terms.php">FreeDigitalPhotos.net<sup>5</sup></a>
<a href="http://www.freeimages.com/terms">Freeimages.com<sup>6</sup></a>	<a href="http://deathtothestockphoto.com/terms-service/">Deathtothestockphoto.com<sup>7</sup></a>
<a href="http://publicdomainpictures.net">Publicdomainpictures.net<sup>8</sup></a>	<a href="http://publicdomainreview.org/collections">Publicdomainreview.org/collections<sup>9</sup></a>

### **Permission to Use Copyrighted Images:**

With respect to photos and cartoons, when in doubt, assume they are subject to copyright and do not use them without the appropriate permission. If you really need a particular image, then just ask! You may be surprised at how many people grant permission to use their images.

<sup>2</sup> <https://pixabay.com/en/service/terms/>

<sup>3</sup> <https://policies.yahoo.com/us/en/yahoo/terms/utos/index.htm>

<sup>4</sup> [https://freerangestock.com/terms\\_of\\_use.php](https://freerangestock.com/terms_of_use.php)

<sup>5</sup> <http://www.freedigitalphotos.net/images/terms.php>

<sup>6</sup> <http://www.freeimages.com/terms>

<sup>7</sup> <http://deathtothestockphoto.com/terms-service/>

<sup>8</sup> “If you intend to use an image you find here for commercial use, please be aware that some photos do require a model or property release. Pictures featuring products should be used with care.”

<sup>9</sup> <http://publicdomainreview.org/legal/>