

# Use of Copyrighted Works and Copyright in University Learning Resources

Revised 2023

Consortium for Learning Resources (CLR)



---

# Contents

Introduction .....	1
1. What is “copyrighted work” ? .....	3
2. What is “copyright” ? .....	4
3. Use of copyrighted work .....	4
4. How to obtain authorization to use another person's copyrighted work .....	5
5. Use of copyrighted work in educational materials .....	6
The creation and use process of educational materials .....	6
① Creation .....	7
② Use A. Video Display .....	10
② Use B. Distribution .....	10
② Use C. Printing .....	11
② Use D. Sharing .....	11
6. Use in a university or other higher education institutions .....	12
7. Use of purchased DVDs or internet videos in class .....	14
8. Distributing educational material that includes copyrighted work outside class ..	15
9. Indicating a source .....	16
10. Translating a copyrighted work and using it as an educational material .....	17
11. Modifying and using copyrighted figures or tables .....	18
12. Use of a foreign copyrighted work as an educational material in Japan .....	18
Reference .....	19

---

---

# Introduction

University teaching methods and materials are becoming increasingly diverse. The traditional approach, in which a teacher speaks and writes on the board, with bound textbooks and paper copies for teaching materials, is still famous. On the other hand, classes where electronic teaching materials created by teachers on personal computers are projected on a screen in the classroom and viewed by students are becoming more prevalent. Furthermore, with the widespread use of the Internet, mobile devices, and other types of information communication technology (ICT), teachers are now able to distribute information to students via on-campus Learning Management Systems (LMS), etc., allowing students to obtain cutting-edge knowledge that is not yet available in textbooks, view high-resolution images and videos at their fingertips, and learn through interactive teaching materials.

In addition to the lecture-style teaching methods described above, cooperative learning is now being implemented in which students form teams, share information they have researched using an LMS, and repeat the investigation and reflection process with the goal of discovering and solving problems, allowing students to learn from each other in greater depth and breadth. In addition, active learning techniques such as flipped classrooms, which require students to prepare for class, are rapidly being introduced into the education field.

Creating and sharing materials for these kinds of advanced classes has become even easier with the use of ICT, which became more widespread and sophisticated during the COVID-19 pandemic. On the other hand, when electronic or online teaching materials created and used by teachers and students include works by other people, creators of such materials and other related parties may face problems and concerns due to dilemmas between (1) Practices for distributing paper copies of teaching materials in the classroom, (2) Utility for learning and pursuit of effectiveness and efficiency of the materials in online use, and (3) What is described in the current Copyright Act and the guidelines published by rights holders, etc. (see the top of the next page).

To address these concerns, the Consortium for Learning Resources (CLR) was established in May 2014 to promote the production and sharing of electronic learning resources, and to study and implement ways to create an environment for the optimal use of copyrighted works in learning and education. As part of its efforts, the Consortium published this booklet in 2016 to support materials creators at higher education institutions in their teaching and learning activities. Chapters 1~4 cover works, copyrights, and principles of use of copyrighted works, Chapter 5 covers current conditions regarding the creation and use of educational materials at universities and provides a practical outline of ideal practices if the Copyright Act were not in force, and Chapters 6~12 cover the provisions of the Copyright Act that are related to the creation and use of educational materials.

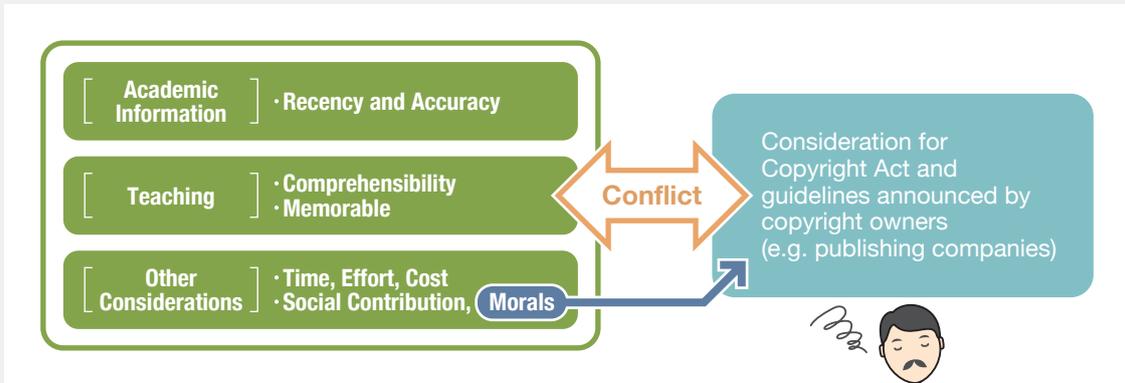
On the other hand, as indicated in Article 1 (Purpose) of the Copyright Act (see the lower middle part of the following page), the purpose of the Act is to both promote authors' creative activities and ensure fair use of works. In other words, the purpose of the Copyright Act is to reconcile the conflict between excessive protection of rights, which would impede the distribution and use of works and prevent the public from enjoying cultural products, and excessive restriction of rights (inappropriate use), which would prevent authors from recovering the costs invested in their works, eliminating the incentive to create new works.

In 2018, Article 35 of the Copyright Act (Reproduction in Schools and Other Educational Institutions; Related Matters), which has a strong bearing on university education, was revised and, prompted by the outbreak of the COVID-19 pandemic in 2020, came into effect one year earlier than originally planned. Specifically, while previously public transmission was only allowed without permission or charge for simultaneous transmission in remote joint classes, now all other public transmission can be conducted without permission by paying a certain amount of compensation by educational institutions.

The relevant sections of this booklet have been revised to make the content more appropriate for university education under the revised Copyright Act. We hope that many of the university's faculty, staff, and students will find it useful.

January 2023  
Consortium for Learning Resources (CLR)

# Overcoming dilemmas when creating digital/online educational resources



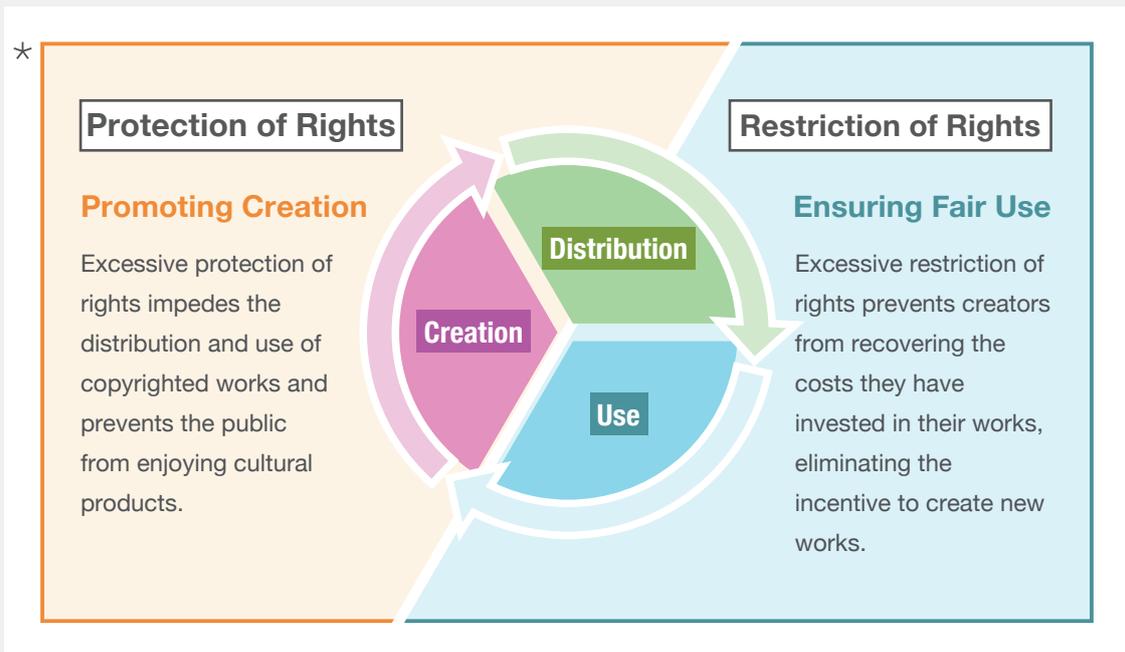
## Purpose of the Copyright Act

Source / Japanese Law Translation Database System  
<http://www.japaneselawtranslation.go.jp>

### Copyright Act

#### (Purpose)

**Article 1** The purpose of this Act is to provide for authors' rights and neighboring rights with respect to works, as well as with respect to performances, phonograms, broadcasts, and cablecasts, and to ensure protection for the rights of authors and other such persons while according attention to the fair exploitation of these cultural products, and thereby to contribute to cultural development.



# 1. What is “copyrighted work”?

“Copyrighted work” or “work” is defined as “a production in which thoughts or sentiments are creatively expressed and which falls within the literary, academic, artistic or musical domain” in Copyright Act.

Simple data such as the height of Fukuoka Tower is 234 meters, ideas that are not expressed by sentences, that are commonplace, that are not creative, etc. are excluded from copyrighted work.

Source \ Japanese Law Translation Database System  
<http://www.japaneselawtranslation.go.jp>

## Copyright Act

### (Definitions)

**Article 2** In this Act, the meaning of the terms set forth in each of the following items is as prescribed in that item:

- I* “work” means a production in which thoughts or sentiments are creatively expressed and which falls within the literary, academic, artistic or musical domain;
- II* “author” means a person who creates a work;

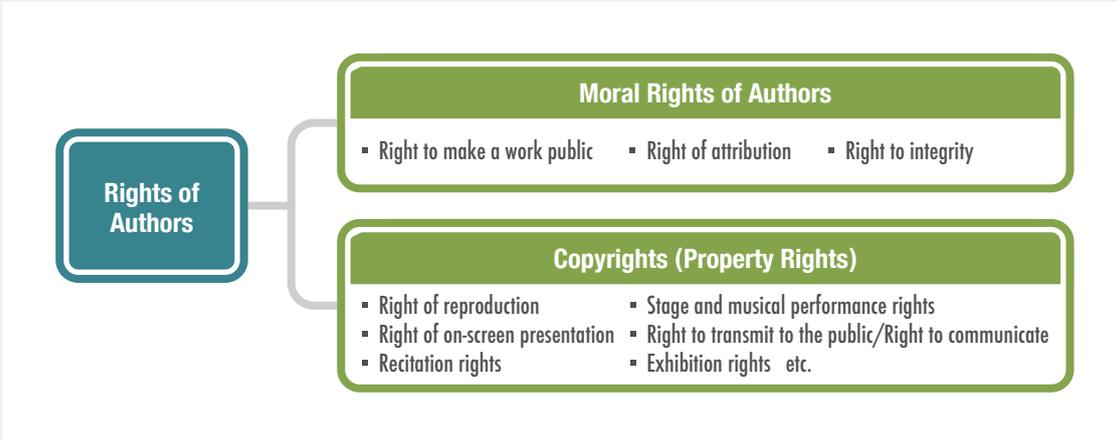
### (Examples of works)

#### Article 10

- I* novels, scenarios, articles, lectures, and other literary works;
- II* musical works;
- III* works of choreography and pantomime;
- IV* paintings, woodblock prints, sculptures, and other works of fine art;
- V* works of architecture;
- VI* maps and other diagrammatic works of an academic nature, such as plans, charts, and models;
- VII* cinematographic works;
- VIII* photographic works;
- IX* works of computer programming.

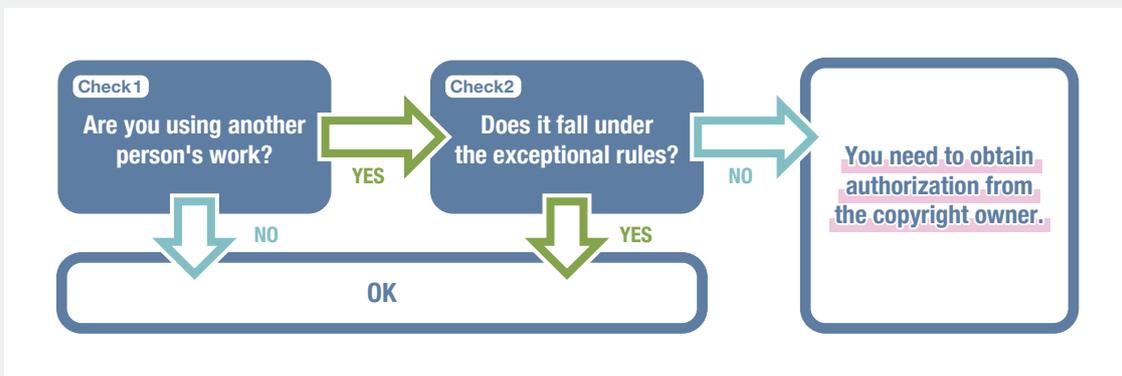
## 2. What is “copyright”?

When you create a work “Moral Rights of Authors and Copyright” (Property Rights) is granted automatically, and it is protected under the Copyright Act. There is no need to apply or register.



## 3. Use of copyrighted work

When using another person's copyrighted work as part of educational materials, if your use is not covered by the exceptional rules(See Sections 6-10) which allow use without authorization, then you must obtain authorization, to use the copyrighted work. Also, if a part of the Copyright(Property Rights) for papers which you wrote and published is transferred to an academic association or publishing company, unless it falls under the exceptional rules, you must obtain authorization from the transferee.



## 4. How to obtain authorization to use another person's copyrighted work

There is no set method to obtain authorization. If both parties agree on the use, then even a verbal agreement is sufficient and binding. However, it is advisable to exchange written documents to preserve evidence.

Example Copyright Permission Request Application Forms are available from Higher Education Organization's websites.

kyushu ICER Copyright

Q Search 

There are some works whose copyright has been entrusted to Copyright Management Service companies registered with the Agency for Cultural Affairs. Information about Copyright Management Service companies is available on the Agency for Cultural Affairs website.

文化庁 著作権等管理事業者 \*

Q Search 

\*Japanese text only

Also, in the event that a university library has entered into a "comprehensive licensing agreement" with a copyright management service company or academic society, then a teacher at that university does not need to obtain permission from that copyright management service company or academic society to use their copyrighted works.

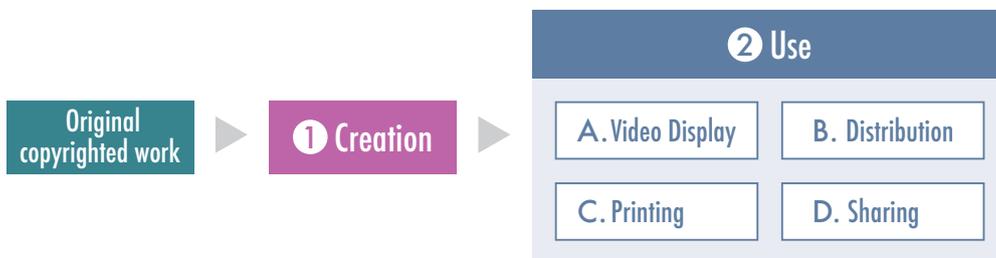
It is CLR's intention to get a comprehensive licensing agreement with an organization that manages copyrights, the "Japanese Academic Association for Copyright Clearance" (JAACC), so CLR affiliated organization teachers will be able to use JAACC copyrighted work without obtaining permission.

# 5. Use of copyrighted work in educational materials

The situation of creating and using educational materials in actual education, and the method that practical users wish.

## The creation and use process of educational materials

We explain the two processes, creation and use of educational materials which use original copyrighted work, separately. However, in reality, there are cases when from "A. Video Display" onwards the order is reversed or activities happen concurrently.



### Summary of each process

#### 1 Creation

The user of the educational material<sup>(1)</sup> creates the educational material<sup>(2)</sup> using original copyrighted work.

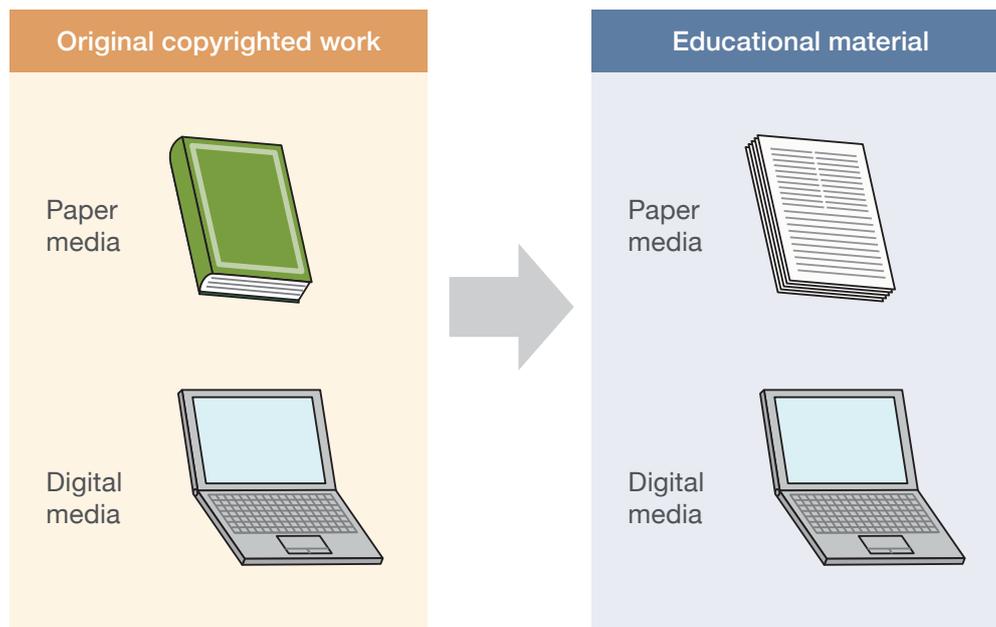
#### 2 Use

- A. Video Display | Video recorded on digital media<sup>(3)</sup> is simultaneously screened to students taking the class<sup>(4)</sup> in classroom or offsite by the user of the educational material.
- B. Distribution | The user of the educational material, distributes the educational material to students on either paper or digital media.
- C. Printing | Students use a machine to reproduce<sup>(5)</sup> on paper, either the whole or a part of the distributed educational material.
- D. Sharing | Sharing of educational materials between CLR affiliated higher education organizations.

(1) Refers to faculty, staff or students at higher education institutions which are members of CLR.  
 (2) Refers to educational materials created with the purpose of effective education and learning, regardless of whether paper media or digital media.  
 (3) Text, spreadsheet, presentation, image, movie and other types of electronic file.  
 (4) Refers to faculty giving students lectures, experiments, workshops, seminars, or student self-study, regardless of whether the students are learning onsite, off-site or simultaneously. (This also applies to distance learning and e-learning.)  
 (5) ① Using a machine to reproduce paper media original copyrighted work on to other paper media.  
 ② Using a machine to reproduce digital media original copyrighted work on to other digital media.

## ① Creation

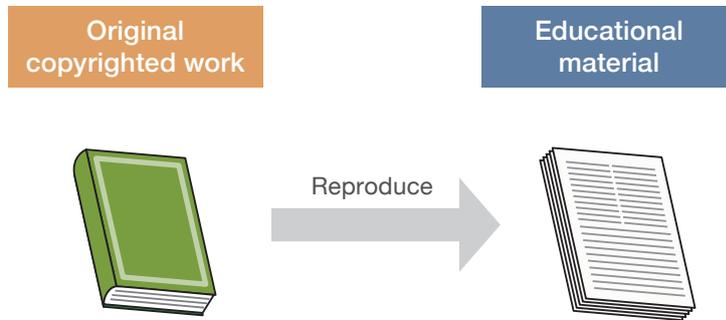
The user of the educational material uses an original copyrighted work to create an educational material. Regardless of whether the original copyrighted work is paper or digital media. This also applies to the created educational material (It can be paper or digital).



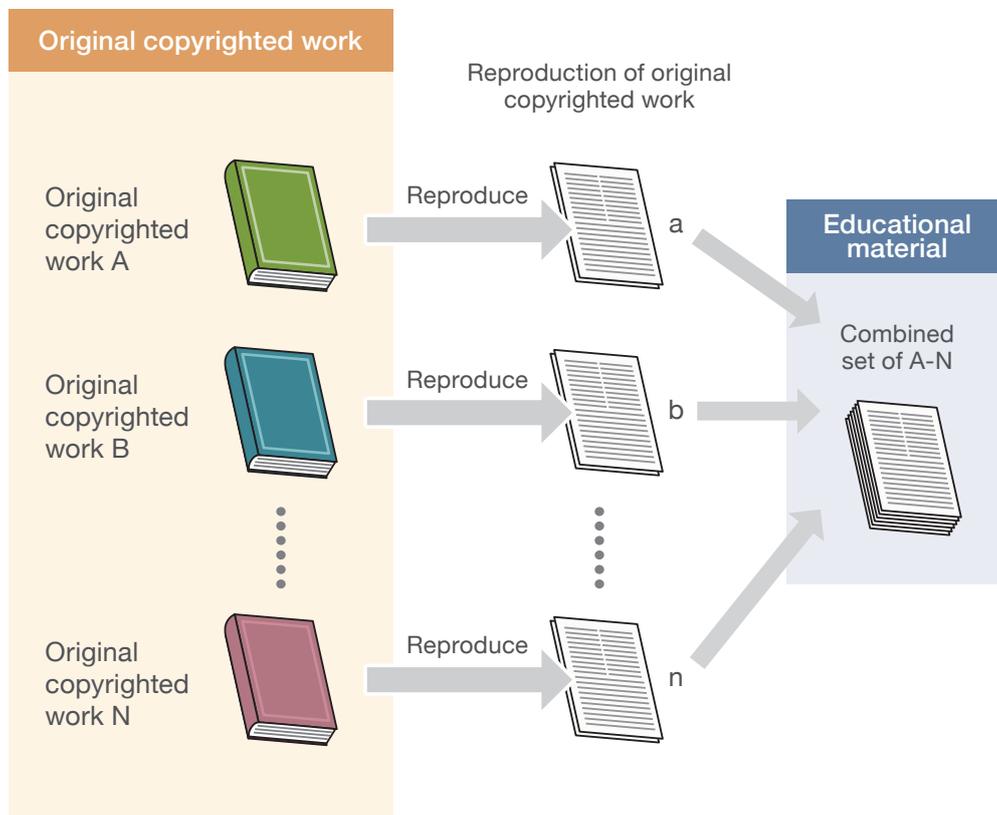
We will separate and explain two categories as listed below.

- (I) Reproducing one part (eg. chapter unit or multiple pages) of original copyrighted work and making into an educational material. Moreover, reproducing parts of many different copyrighted works to combine for use in one educational material pack. (Common name: Course Pack)
- (II) Inserting a graph, photo, composition etc. published in an original copyrighted work into a slide etc., for use as an educational material.

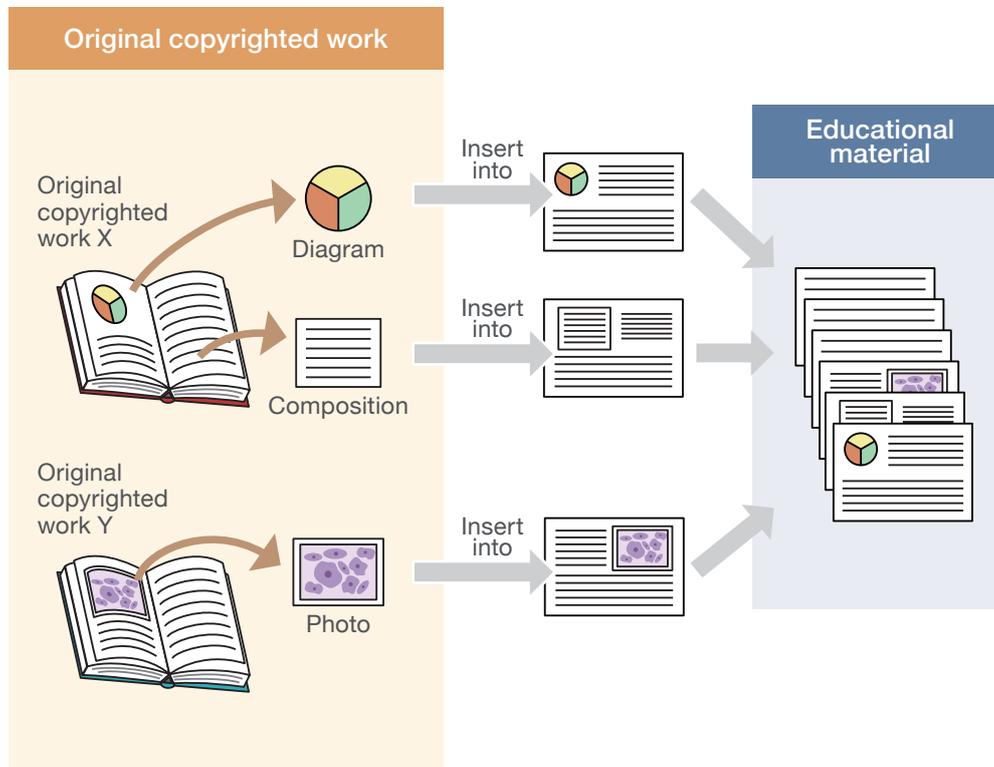
(I) Reproducing chapter unit or multiple pages of an original copyrighted.



Moreover, reproducing multiple, different original copyrighted materials and combining them into a set for use as one educational material. (Common name: Course Pack)



- (II) Inserting a diagram, photo, composition etc. published in an original copyrighted work into a slide etc., for use as one educational material.

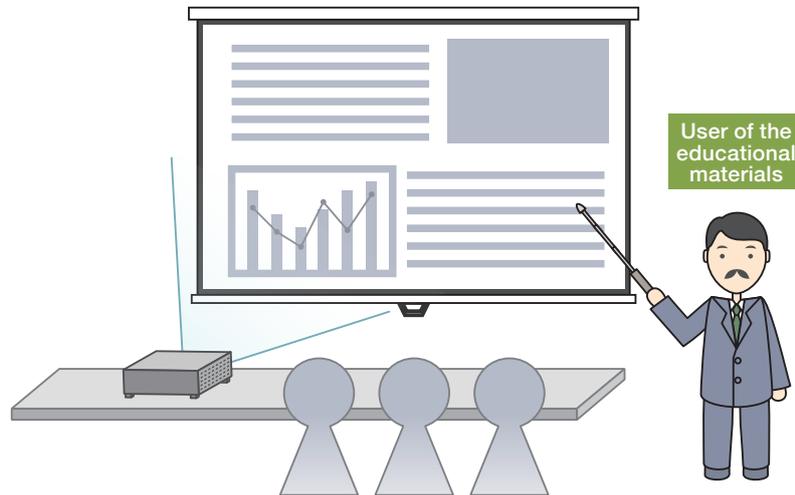


Three ways of insertion are listed below.

- (A) The unaltered original copyrighted work.
- (B) An altered version of the original copyrighted work.  
Examples of alterations:  
(Multiple, combined alterations are also possible.)
- Adding explanatory notes and additional lines.
  - Adding color to highlight areas.
  - Removing unneeded areas.
  - Enlarging, shrinking, altering the height and width.
  - Replacing vocabulary with different words of the same meaning.
  - Summarizing a composition or replacing with a diagram.
  - Without altering the meaning, re-create the contents.
- (C) Translate the original copyrighted work into a different language.

## ② Use A. Video Display

The user of the educational materials screens the video recorded on digital media simultaneously to students taking the class in class or offsite.

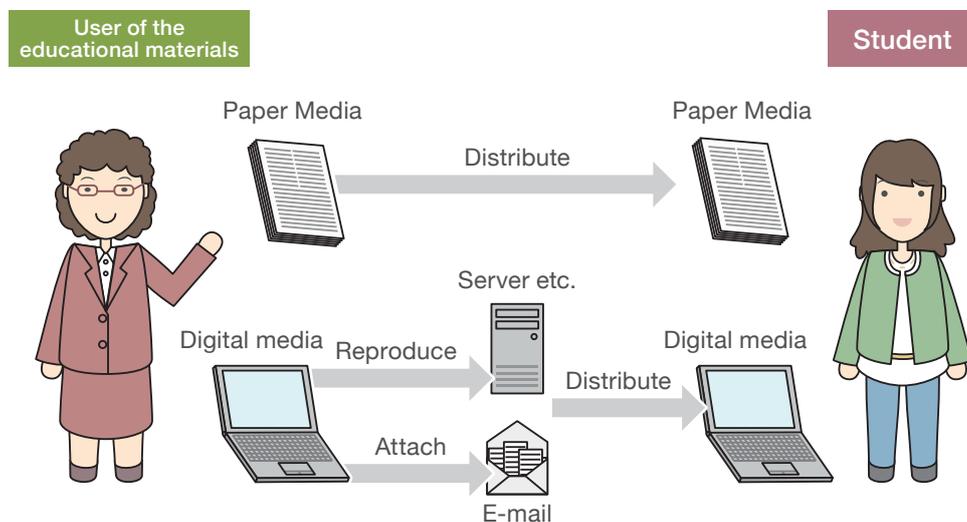


- Digital media reproduced for an educational material is shown in

## ② Use B. Distribution

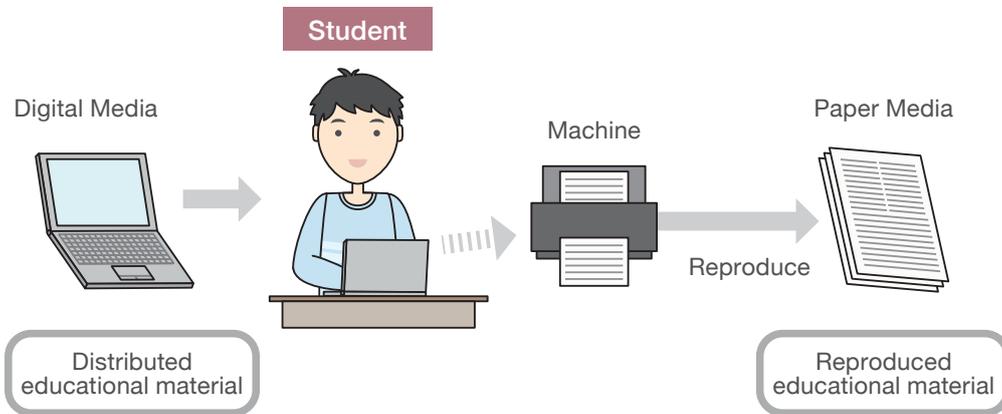
The user of the educational materials distributes paper or digital media<sup>(\*)</sup> educational materials to students for their study preparation, review or for reference during class.

- \* Using an E-learning system, e-mail (attached files), social networking system etc. to reproduce and distribute. (Servers for campus use and also external commercial cloud services can be used.)



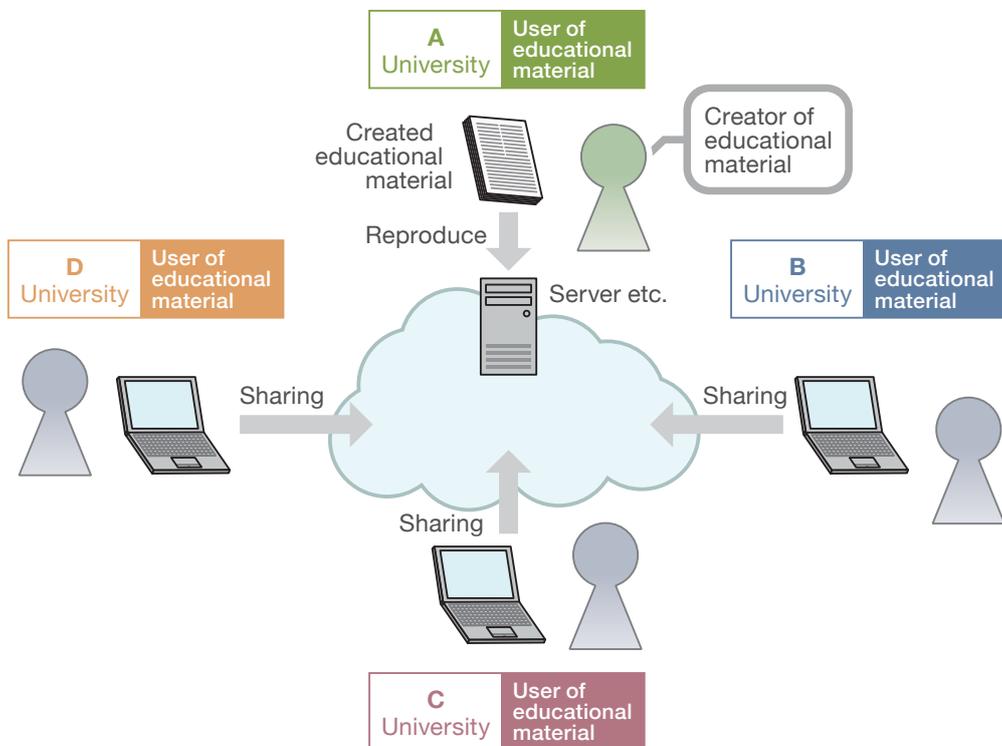
## ② Use C. Printing

Students, use a machine to reproduce the whole or a part of the distributed digital media educational material onto paper media.



## ② Use D. Sharing

The user of the educational materials, recreates the materials on a server etc., and shares them with other users of educational materials at a CLR affiliated institution.



## 6. Use in a university or other higher education institutions

When using another person's copyrighted work without authorization in a university face to face class, one of the exception rules of Copyright Act Article 35 (Reproduction in Schools and Other Educational institutions; Related Matters) must apply. The requirements are listed below.

### Conditions of reproduction in an educational institution are as follows

1. Must be used in an educational institution founded for non-commercial purposes.
2. Must be reproduced by a person in charge of teaching or a person taking classes. (Teacher or student can also request another person to make copies on their behalf)
3. The copies must be used in the course of classes.
4. The number of copies produced must not exceed the amount needed for class.
5. The work being reproduced must already have been made public.
6. You must take into account the type and use of the work, and not unfairly impinge on the profits of the copyright owner. (Note. This is not applicable to items such as software and student drill exercise books etc. which have been created for the purpose of sales to individual learners.)
7. Where it is common practice, you need to explicitly indicate the source.

### Copyright Act

#### (Reproduction in Schools and Other Educational Institutions; Related Matters)

##### Article 35

**1** A person in charge of teaching or a person taking classes at a school or other educational institution (except one founded for commercial purposes) may reproduce a work that has been made public or transmit that work to the public (including making that work available for transmission, if it is to be transmitted to the public via automatic public transmission; hereinafter the same applies in this Article), or publicly communicate a work that has been made public and is transmitted to the public through a receiver to the extent that is found to be necessary if the purpose of doing so is exploitation in the course of those classes; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature and purpose of the work, the number of copies that would be made, and the circumstances of its reproduction, public transmission, or transmission.

**2** If a work is transmitted to the public pursuant to the provision of the preceding paragraph, a person that establishes an educational institution referred to in that paragraph must pay the copyright owner a reasonable amount of compensation.

**3** The provisions of the preceding paragraph do not apply if, in the course of the classes at an educational institution referred to in paragraph (1), the original or copies of a work that has been made public are made available or presented to persons who directly attend a class and thus exploited, or if that work is exploited through a stage performance, musical performance, on-screen presentation, or recitation for those persons pursuant to the provisions of Article 38, paragraph (1), and that work is transmitted to the public for any persons taking that class simultaneously at a place other than that where the class is being held.

Source \ Japanese Law Translation Database System  
<http://www.japaneselawtranslation.go.jp>

## Outline of the 2018 Amendment to the Copyright Act

### Compensation System for Public Transmission for Class Purposes

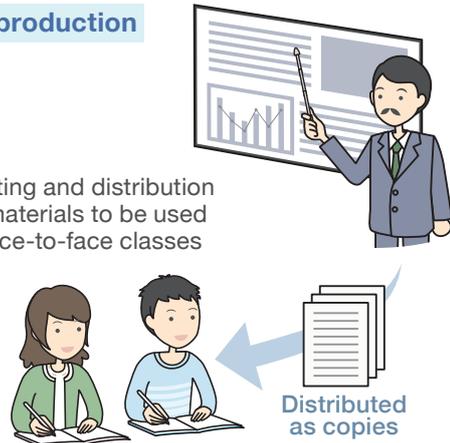
Promoting ICT-based education by expanding the scope of unlicensed use of copyrighted works through payment of lump-sum compensation.

#### Copyright Act, Article 35, Paragraph 1

##### Without permission or charge

###### Reproduction

Printing and distribution as materials to be used in face-to-face classes

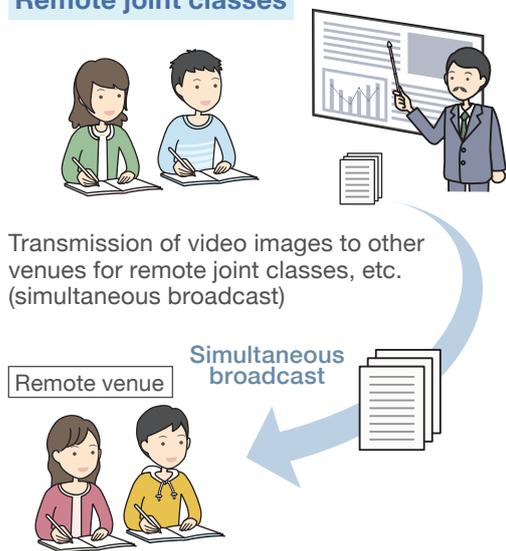


#### Copyright Act, Article 35, Paragraph 3

##### Without permission or charge

###### Remote joint classes

Transmission of video images to other venues for remote joint classes, etc. (simultaneous broadcast)



However, separate permission is required in cases where the copyright holder's interests are unreasonably infringed upon.

#### Copyright Act, Article 35, Paragraph 1 and 2

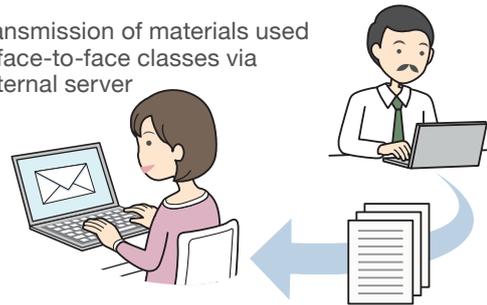
##### Without permission by paying

Compensation approved by the Agency for Cultural Affairs

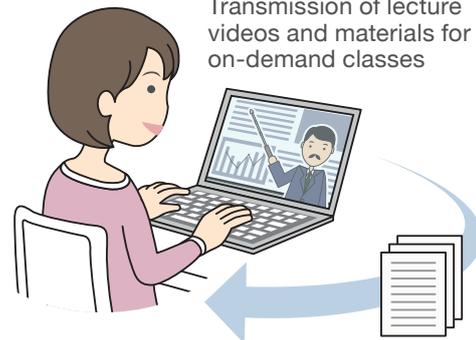
###### All other public transmission

Preparation and review materials for in-person classes sent via email

Transmission of materials used in face-to-face classes via external server



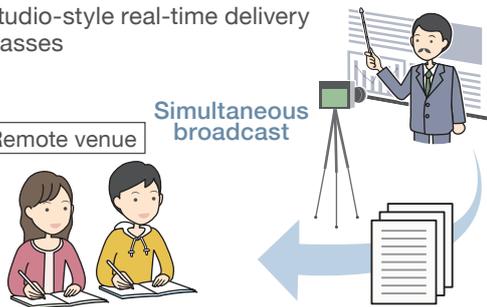
Transmission of lecture videos and materials for on-demand classes



Studio-style real-time delivery classes

Remote venue

Simultaneous broadcast



#### Reference

**1** For details on the revision of the Copyright Act, please check the Agency for Cultural Affairs website.

文化庁 授業目的の公衆送信補償金制度\*

\*Japanese text only

**2** Please refer to the SARTRAS website for information on amounts of compensation, cases where the copyright holder's interests are unreasonably infringed upon, etc. (Materials)

SARTRAS 授業目的の公衆送信補償金等管理協会\*

\*Japanese text only

## 7. Use of purchased DVDs or internet videos in class

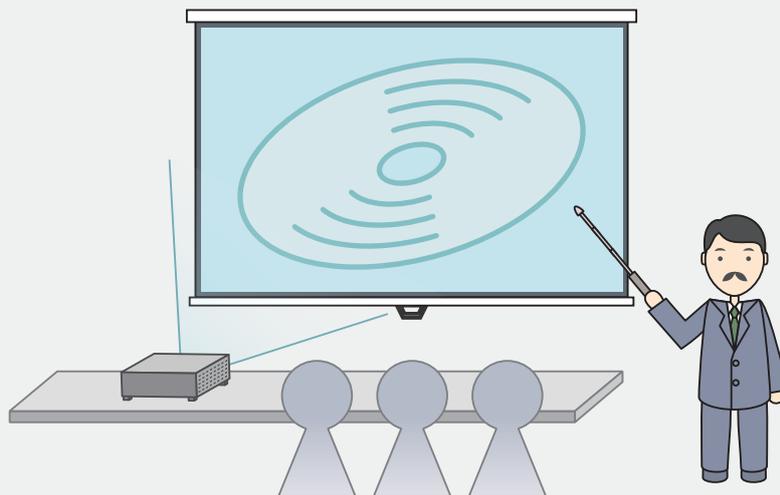
Published copyrighted works can be shown in a university class or academic lecture.

Source \ Japanese Law Translation Database System  
<http://www.japaneselawtranslation.go.jp>

### Copyright Act

#### (Stage performances, etc. for non-commercial purposes)

**Article 38** It is permissible to publicly give a stage performance or a musical performance, make an on-screen presentation, or give a recitation of a work that has been made public, if this is done for non-commercial purposes and without charging a fee to the listening or viewing audience (a fee meaning anything of value received in exchange for offering or presenting the work to the public, regardless of what it is called; the same applies hereinafter in this Article); provided, however, that this does not apply if a performer or reciter is paid any remuneration for the stage performance, musical performance, on-screen presentation, or recitation.



## 8. Distributing educational material that includes copyrighted work outside class

When distributing educational material containing copyrighted works in class Copyright Act Article 35(Reproduction, etc. in schools and other educational institutions) applies. However, for distributing copyrighted material outside of lesson this article does not apply (Part 2 of that article). At that time Copyright Act Article 32 (Quotation) needs to be applied. The requirements are listed below.

### Conditions when quotation can be applied

1. The work has already been published.
2. There is a need to quote a work of others.
3. The quoted part is clearly distinguished from the rest of the text.  
E.g. Surrounded by quotation marks.
4. The quotation length is the minimum necessary.
5. The quoted part is subordinate to the work as a whole.
6. In principle the quoted part retains its original form.
7. Use does not damage the author's honor and you do not use it contrary to the author's intention.
8. The source is clearly indicated.

### Copyright Act

#### (Quotation)

**Article 32** It is permissible to quote from and thereby exploit a work that has been made public. In such a case, the work must be quoted consistent with fair practices and within a scope that is justified by the aim of the news report, critique, study, or other place in which the work is quoted.

**2** It is permissible to reprint public relations materials, research or statistical materials, reports, and other works of a similar character which have been prepared by a national or local government agency, incorporated administrative agency, or local incorporated administrative agency with the goal of making them widely known to the general public, and which have been made public under the authorship of such agency, as explanatory materials in a newspaper, magazine, or other printed publication; provided, however, that this does not apply if it is expressly indicated that this is prohibited.

Source \ Japanese Law Translation Database System  
<http://www.japaneselawtranslation.go.jp>

# 9. Indicating a source

When indicating a source, to identify the copyrighted work there is a specified minimum amount of information you must list.

Examples of indicating a source	
<b>Journal Article</b>	<u>Motofumi Yoshida</u> , <u>Cancer Research</u> , <u>54(17)</u> , <u>pp.4691-4697</u> , <u>1994</u> <small>Author Journal Title Volume Page numbers Year of Issue</small>
<b>Book</b>	<u>Hanako Daigaku</u> , <u>“Copyright Act”</u> , <u>Learning Resources</u> , <u>Ver.2</u> , <u>p.120</u> , <u>2014</u> <small>Author Title Publisher Version Page No. Year of Issue</small>
<b>Website</b>	<u>http://clr.jp/about/index.html</u> , <u>2022/12/9</u> <small>URL Access Date</small>

Source \ Japanese Law Translation Database System  
<http://www.japaneselawtranslation.go.jp>

## Copyright Act

### (Indication of source)

**Article 48** In a case set forth in one of the following items, the source of the work must be clearly indicated in the manner and to the extent considered reasonable and commensurate with the circumstances of its reproduction or exploitation:

- I** a work is reproduced pursuant to the provisions of Article 32; Article 33, paragraph (1) (including when application mutatis mutandis is provided for pursuant to the provisions of paragraph (4) of the same Article); Article 33-2, paragraph (1); Article 37, paragraph (1); or Article 42 or 47;
  - II** a work is exploited pursuant to the provisions of Article 34, paragraph (1); Article 37, paragraph (3); Article 37-2; Article 39, paragraph (1); Article 40, paragraph (1) or (2); or Article 47-2;
  - III** a work is exploited other than by its reproduction pursuant to the provisions of Article 32 or is exploited pursuant to the provisions of Article 35; Article 36, paragraph (1); Article 38, paragraph (1); Article 41; or Article 46, and it is common practice to indicate the source.
- 2** In a source indication as referred to in the preceding paragraph, the name of the author that appears on the work must be cited, except if the author's name is clear from the source indication or if the work is anonymous.
  - 3** If a work is exploited by translation, musical arrangement, reformulation, or adaption pursuant to the provisions of Article 43, the source must be indicated pursuant to the provisions of the preceding two paragraphs.

## 10. Translating a copyrighted work and using it as an educational material

Copyright Act Article 35 (Reproduction, etc. in schools and other educational institutions) and Article 32 (Quotation) where they apply, it is possible to translate without permission (Copyright Act Article 43 part1, part2).

Source \ Japanese Law Translation Database System  
<http://www.japaneselawtranslation.go.jp>

### Copyright Act

#### (Exploitation by means of translation, adaptation, etc.)

**Article 43** If it is permissible to exploit a work pursuant to the provisions set forth in one of the following items, it is also permissible to exploit that work in accordance with the provisions set forth in that item by the means set forth in that item:

- I** Article 30, paragraph (1); Article 33, paragraph (1) (including as applied mutatis mutandis pursuant to paragraph (4) of the same Article); Article 34, paragraph (1); and Article 35: translation, musical arrangement, reformulation, and adaptation; Article 31, paragraph (1), item (i); Article 32; Article 36; Article 37, paragraph (1) or
- II** (2); Article 39, paragraph (1); Article 40, paragraph (2); Article 41; or Article 42: translation;
- III** Article 33-2, paragraph (1): reformulation and adaptation;
- IV** Article 37, paragraph (3): translation, reformulation, and adaptation;
- V** Article 37-2: translation and adaptation.



## 11. Modifying and using copyrighted figures or tables

When making educational materials, to make it easy for students to understand and for the purpose of education, it is often essential to modify and use a figure or table. Therefore, altering copyrighted work when making educational materials is covered not only by Copyright Act 35 for use in classes, but also (if for educational purposes and within minimum and necessary range) for use outside the class in Copyright Act Article 20, Paragraph 2, Item 4 is applicable.

Source \ Japanese Law Translation Database System  
<http://www.japaneselawtranslation.go.jp>

### Copyright Act

#### (Right to integrity)

**Article 20** The author of a work has the right to preserve the integrity of that work and its title, and is not to be made to suffer any alteration, cut, or other modification thereto that is contrary to the author's intention.

2 The provisions of the preceding paragraph do not apply to the following modifications:

- I the alteration of a written character or word, or any other modification that is found to be unavoidable from the perspective of school education purposes, when a work is exploited pursuant to the provisions of Article 33, paragraph (1) (including when these apply mutatis mutandis pursuant to paragraph (4) of the same Article), Article 33-2, paragraph (1), or Article 34, paragraph (1);
- II the modification of an architectural work by means of extension, rebuilding, repair, or remodeling;
- III a modification that is necessary for a work of computer programming that otherwise cannot be used on a particular computer to be compatible with that computer, or for a work of computer programming to be used more effectively on a computer;
- IV a modification other than ones set forth in the preceding three items, which is found to be unavoidable in light of the nature of the work and the purpose and circumstances of its exploitation.

## 12. Use of a foreign copyrighted work as an educational material in Japan

A country's Copyright Act's effective power is limited to that country's territory (called the territorial principle). So, the Copyright laws of the country where the copyrighted work is used apply. In other words, if copyrighted works are used in Japan as educational material then Japan's Copyright Act rules apply. If Japan's copyrighted works are used abroad, then the foreign country's copyright rules will apply.

## Reference 1

There is a labelling system where authors can show in advance they allow limited, defined use of their copyrighted work. If your use falls within those marked conditions, then use is permitted without obtaining permission from the author.

**Creative Commons license**



Attribution, BY    Noncommercial, NC    Share Alike, SA    No Derivative Works, ND

For details, please refer to the website of Creative Commons Japan.

Creative Commons

**Free Use Marks**  
(provided by the Agency for Cultural Affairs in Japan)



コピーOK    障害者OK    学校教育OK  
Copy OK    Handicapped OK    Education OK

For details, please refer to the website of the Agency for Cultural Affairs.

自由利用マーク\*

\*Japanese text only

## Reference 2

The guidelines issued by each organization and publisher are introduced on the CLR website.

Consortium for Learning Resources CLR Copyright

**Title :** Use of Copyrighted Works and Copyright in  
University Learning Resources

**Editor/Publisher :** Consortium for Learning Resources (CLR)

**Published :** 2023 February 1st

