



For Staff and Judges Use of COPYRIGHTED/TRADEMARKED Material In 4-H Fair Exhibits and Activities

What does copyright mean???????

A copyright and/or a trademark are legal methods used by artists, photographers, writers, and others to protect their original and creative works. Protected items may range from professional photography and books to music, sport logo insignias, corporate and brand name logos to art designs. It is important to remember the idea itself cannot receive a copyright. The expression of an idea is what is copyrighted. For example, one cannot copyright "bears", but specific bears like Winnie-the-Pooh and Smoky Bear cannot be copied without permission.

As an educational agency, 4-H has the responsibility to prepare materials that help program participants learn about proper use of copyright and trademark regulations. Copyright means complete or portions of materials cannot be reproduced without permission and proper crediting of the source. It is not possible to address all situations that may occur; however, the following information will provide some background for making decisions and determining appropriate actions.

Proper crediting of source includes name of book, magazine, newspaper, etc., author/artist/ publisher (which ever is most logical), date of publication, page number. If 4-H'ers lack some of the documentation when exhibiting, judges should use the situation as a teachable moment, remembering this is meant to be a learning experience not a policing experience.

It is the responsibility of individual 4-H'ers to be aware of copyright/trademark regulations when developing 4-H exhibits and communication activities for county and state fairs. **4-H'ers are encouraged to create their own original work and illustrations so they can avoid using copyrighted and/or trademarked material.**

The symbol © indicates the owner of the material holds a copyright. (This symbol frequently is seen on professional photographs.) However, the copyright symbol is not legally required in order to copyright something, so assume that anything published is copyrighted. Rights to trademarks (or brand names) are protected by either of the following symbols: trademark ™, service mark SM, or registered ®.

There is no simple answer to all questions that may surface about copyright. Remember if you are using a portion of the information as a reference in a written piece (copied newspaper clippings, a verse for a cross-stitch, or content for an exhibit booklet) and you credit the source, you are OK. If you are using the source (photograph, painting,) to create a similar design, you must ask permission before you try to duplicate the original and you would not call it an original design.

For educational purposes, "fair use" is a provision of the current copyright law that allows reproduction of limited portions of a copyright work. This can occur in the school classroom as assigned by an instructor for the purpose of learning a special technique or style. The

same could be applicable for learning experiences by 4-H'ers enrolled in 4-H projects such as the visual art project when planning for an exhibit in the technique class. However, resulting items or articles cannot be entered as fair exhibits and put on public display -- unless permission has been requested AND GRANTED. When entered at fairs, the permission letter must accompany the exhibit. A label "Permission to use copyrighted material has been granted" **must be posted on displayed exhibits at county and state fairs.**

Application of the above to specific questions from 4-H'ers:

1. Can 4-H'ers use/copy the 4-H emblem in exhibits? YES.

- As a member of the organization, they are encouraged to use the 4-H emblem. The 4-H emblem means a four leaf clover, with an "H" on each leaf. **Without the H's, it is simply a clover and not the 4-H emblem and can be used in any way.** One may use the 4-H emblem by adhering to the following guidelines:
- No printing or design can cover or be super-imposed over the emblem.
- Traditional color for the clover is green with the H's in white or gold. However, any colors can be used.
- The stem curves to the right.
- **ITEMS INCLUDING THE 4-H EMBLEM CAN NOT BE SOLD FOR PERSONAL PROFIT**

When using the 4-H emblem, include "**18 U.S.C.707**" to the right of the stem as shown on the emblem on the first page of this piece. Exceptions may occur when the 4-H emblem is part of a piece of art or is smaller than $\frac{3}{4}$ " thus the wording would distract from the piece or be too small to be read. For the exceptions, a label with the protection statement should be placed on the back of the item or in the write-up for the exhibit with the following:

The 4-H Emblem is protected under Title 18 U.S.C. 707.

Staff can get further information from section 6 of the staff handbook.

2. Can the 4-H'ers ever use a design inspiration (IDEA) from a magazine picture, painting, sculpture, etc to create a 4-H visual arts exhibit? YES:

- If they request permission to use that design to practice a skill or technique and put it in the **Visual Arts Technique class**. The letter of permission must accompany the exhibit and the source of design documented. They should not sign the front of this picture, but should be encouraged to sign and date the back. (If they did sign the front, which indicates it as original, do not disqualify or lower a ribbon. Use this as a teachable moment for the next item they create.)
- If they **make at least 3 major changes** it may be considered an original design. The original design source should be included so an accurate comparison can be made. Do not rely solely on the 3 major change guideline (see next question for further clarification).

3. How major is major when referring to the 3 required changes? Let's use the example of a magazine picture of a woman holding a steaming cup of coffee

- Changing the woman to a man in the same pose, changing the cup color and making it hot chocolate with marshmallows is **not major enough**.
- Changing the steaming cup of coffee to a mountain volcano with steam coming out, change the background to a blue sky with clouds and add trees, rocks, etc. and change the woman to a group of people standing at the base of the steaming mountain **would be three major changes**. Include the copy of the design so evaluators can assess the major changes. A rule of thumb test – Hold the original

source of design next to the new creation. Close your eyes, open them quick and look at the two items. Do they **look similar**? If so, the changes **are not** major enough.

4. **Can cartoon characters be used on posters, drawings, paintings, etc.?** One can not recreate the character unless they have permission from the owner of the copyright. Popular cartoon character images are copyrighted designs. However, one may cut out the character from a purchased item and use that image of the character. **The difference is the 4-H'er is not trying to reproduce the original design.** Be careful of the setting or situation in which you place such an image.
5. **Why is it okay to take a photo of a copyrighted item?** In most photographs the 4-H'er is taking a picture (an exact likeness of the item). They are not trying to duplicate the item. If they were manipulating the photo to distort or change the image, then permission would be needed because they are changing the original logo or trademark.
6. **Is computer-generated art copyright safe to be entered in original art class?** Maybe. Is it truly original? You can do some extremely, unbelievably incredible art on the computer that is hard to believe it is original. The computer is a powerful tool. There are many different software programs on the market for design use.
The trick to keeping it original is:
 - Avoid "clip-art". Many sources of clip art are "public domain," which means using it isn't a copyright problem, but it would *not be original*. Read and follow the use restrictions of the clip art source.
 - Beware of "scanned" images. Scanned images can be anything that is mechanically transformed into a computer image which then can be manipulated or not. It depends on the originality of the beginning image and then what is done with it. If it was your original to start with, it doesn't matter. If it wasn't your original (i.e.: magazine picture) then it must be manipulated way beyond its starting design and still cannot contain copyrighted images (i.e. sports logos). The three major changes concept works here.

Talk to the 4-H'er and discover what processes they used and how they used them. If they used some type of design source (clip art or scanned) be sure the original design is included so changes can be accurately determined. Keep asking questions until you understand their decision-making processes. *When in doubt, due to lack of your technical experience, error in favor of the 4-H'er.*

7. **Can any item done in an art class be used as a 4-H exhibit?**

Not all projects completed within a classroom setting are copyright safe for public display in the fair setting. Sometimes the teacher will allow the use of copyrighted subject material if:

- it is an assignment focusing on a technique (i.e. learning to mix and match colors found in magazine photo),
- learning about an artist or artistic style (i.e. copying a master's painting to learn their style), or
- if it is more for personal use (i.e. drawing assignment in a sketchbook).

These types of projects are very appropriate for the classroom but are not meant for public display. That doesn't mean that some teachers might not do so. Some teachers are not as aware of the copyright law. There is a difference in the number of people that may see a

work displayed in an art room (100 maybe tops) compared to fairs (1000's) so the issue may not have been brought to the teacher's attention.

8. **Can 4-H'ers use fabrics, decals, stickers, etc. they have purchased with copyrighted designs in 4-H exhibits?** YES

The supplier has received permission (and often paid for the right) to use the design in the specific item as sold. This does not constitute a copyright violation when the 4-H'er uses it. However, if **the design is copied by the 4-H'er** and used in another media or for a different purpose this would infringe on the copyright.

9. **A 4-H'er has used several cereal boxes in their display to compare nutritional content. Is it a copyright violation to use the boxes?** NO.

This is acceptable for educational and illustrative purposes, if the product is being used for example only, and not used to imply endorsement or refusal of the product by 4-H, Iowa State University Extension, or Iowa State University. Again, the point is the 4-H'er did not try to duplicate the trademark or design, they used the original product.

10. **Can music or any other copyrighted print materials be copied in lieu of purchasing your own copy for use?** Generally NO.

If directions for a craft or recipe are a small part of the total publication, one can make a single copy for their own use crediting the original source. Music is often published as individual sheet music and must be purchased. If the music is part of a collection or book of musical works, one selection could be copied and the source is credited.

11. **Can a copy of sheet music be used in an exhibit that is on display?** YES.

This is permissible if the *original version was purchased by the 4-H'er*. The music is being used for illustrative purposes to meet the goal of the 4-H'er. For example, if the exhibit covered the history and works of a particular composer, copies of examples of the composer's work could be included. (Often people are confused because a church choir or band cannot reproduce music for their use. The difference is multiple copies vs. one.)

12. **Is there a limitation on how long a copyright must be respected?** YES

Be sure to check the latest publication date on copyrighted materials. It is generally permissible to use materials 95 years or older without requesting permission, however the source must be documented. It is also permissible to use information from print material that is considered in "public domain", i.e.: The Bible. Many old photos taken by professional photographers were not copyrighted as they are today, thus can be copied for use (it may be especially important to copy when needing to protect fragile originals).

13. **Can articles, directions, or pictures be copied from books or magazines?** MAYBE

It is permissible to copy, from books or magazines, articles, directions and accompanying pictures on how to do a process or procedure, for personal use. The source of the information must be documented. When using a quote or citing a specific segment of printed information it is important to credit the source just as you would in writing themes, term papers, etc. These copied directions/pictures should not be distributed to others (working exhibits). Tell the public the source of the material or put directions on a poster. The poster is your single use of the information. Handouts could limit the future sale of a book or magazine. One should not reproduce (copy) pictures from books and magazines and claim it as **original artwork**. A picture, as part of an article that is being referenced in a report or illustration of directions, could be copied because it is a point of information; not the source of a design. Use of copied pictures on posters are allowed if the copyright

restrictions of the source permit that use. It is permissible to use portions of or all of a book, poem, etc. that you have purchased in a public presentation or Share-the-Fun act.

14. **If a 4-H'er purchases a kit can it be exhibited in regular visual art classes?** NO.
The item does not represent creative development of the design by the 4-H'er, which is one objective of the visual art project. (Some counties do have a kit classes that is appropriate for county level, but not state fair eligible.) In a kit, someone else created the design and identified or selected the materials to complete the finished product (which may be helpful when a young person is learning a new skill). 4-H'ers are advised to consider the goal they want to accomplish and the evaluation criteria that applies to the respective class in which the item is exhibited. Some kits may be appropriate in classes other than visual arts.

Copyright Information Resources

The Copyright Website

<http://www.benedict.com/>

The United States Copyright Office

<http://www.loc.gov/copyright/>

United States Patent and Trademark Office

<http://www.uspto.gov/>

University of Texas Crash Course in Copyright

<http://www3.utsystem.edu/ogc/intellectualproperty/cprtindx.htm>

Stanford University Libraries: Copyright and Fair Use

<http://fairuse.stanford.edu/>

Friends of Active Copyright Education

<http://www.csusa.org/face/>

Web Law FAQ

<http://www.patents.com/weblaw.sht>

Copyright Management Center: Indiana University/Purdue University

<http://www.iupui.edu/~copyinfo/>

Field, Jr. Thomas G. Avoiding Patent, Copyrighted and Trademark Problems.

<http://www.fplc.edu/tfield/avoid.htm>

Headley, Tim, Colson, Randall E., Moetteli, John. Copyrights for Literary, Performing and Visual Artists. <http://www.hayboo.com/briefing/headley3.htm>

Web site <http://artslaw.org>

The Copyright Act of 1976, as amended, is codified at 17 U.S.C. Sec. 101 et seq.

Copyright for Literary, performing and visual arts. <http://www.hayboo.com/briefing/headley3htm>