

About using third party materials

Under the 2018 amendment of Article 35 of the Copyright Act, the Compensation System for Public Transmission for Educational Purposes (Compensation System), starting in April, 2021, has made it possible to publicly transmit third party materials (audiovisual materials/handouts) without obtaining the authorization of the copyright owner in order to facilitate the exploitation of work in education using ICT.

Article 35 of the Copyright Act (comparative table)		Current		Revised	
		Permission	Compensation	Permission	Compensation
1	Printing/distributing materials for in-person classes	Not necessary	Not necessary	Not necessary	Not necessary
2	Public broadcasting for simultaneous, long-distance classes				
3	Broadcasting lectures and materials for on-demand classes	Necessary	Necessary (in principle)		Necessary (Paid by compensation deposit)
4	Sending study materials for in-person classes by email				
5	Live broadcasting of classes in a studio				

In order to be covered by the Compensation System, the distribution must be limited to the students registered for the class and the class period. In the Lecture Video System, the Compensation System can be applied by setting the scope of release to "only for registered students". If you use the Compensation System, you may be asked to report this in a survey to be conducted. We ask for your cooperation in managing the sources of third-party works used, etc., and in conducting the survey.

Please note that if the scope of release is set to anything other than "only for registered students," the third-party works included must meet the conditions of use presented by the author or must be individually licensed, and if they are used without permission, they must be used within the scope of citations.

Reference: Compensation System Information for

Under the Compensation System, third party material use is not unlimited even when providing materials to students in class. Duplication violating the copyright holder's rights is not allowed even for classes.

Some examples of this

(from P16 of Operational Guidelines for Article 35 of the Amended Copyright Act (Fiscal

Year 2021 Edition)):

- Reproducing application software such as document preparation software, spreadsheet software, PDF editing software, for use in classes
- Reproducing and distributing entire written texts that are considered beneficial to students for reference even if they are not handled in a class
- Reproduction or public transmission to a number of people that obviously exceeds the total number of faculty involved, students, etc. in a class

The Compensation System will investigate the actual conditions and NAIST may be selected for this, so please keep track of sources when you use third-party materials.

Please refer the following URL for information concerning the Compensation System

- SARTRAS / Compensation System for Public Transmission for Educational Purposes
<https://sartras.or.jp/en/>

- Operational Guidelines for Article 35 of the Amended Copyright Act (Fiscal Year 2021 Edition)
https://sartras.or.jp/wp-content/uploads/OperationalGuidelineforArticle35_2021.pdf

Requirements for the quotation of third-party materials without receiving permission:

- (1) The work must have already been made public
 - (2) Compatible with fair practice.
 - (3) Justifiable purpose of the quotation, such as for news reporting, critique or research.
- From Article 32 of the Copyright Act

To fulfill the requirements for “Compatible with fair practice” and “Justifiable purpose of the quotation”, your presentation materials should:

- (1) Have a necessity for quotes.
- (2) Clearly distinguish between your original work and any quotations. (i.e. using quotation marks.)
- (3) Have a main/sub-text relationship.
(Your original work should be the core of the material.)
- (4) Clearly indicate the source.

From the Agency for Cultural Affairs HP

Copyright Act

Article 32 (Quotations)

(1) It is permissible to quote 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 for the purpose of news reporting, critique, study, or other place in which the work is quoted.

(2) It is permissible for publicity materials of a national government agency, etc. to be reprinted 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.

Article 35 (Reproduction in Schools and Other Educational Institutions; Related Matters)

(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.

Article 48 (Indication of Sources)

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, commensurate with the circumstances of its reproduction or exploitation:

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 that Article); Article 33-2, paragraph (1); Article 37, paragraph (1); or Article 42 or Article 47, paragraph (1);