The Five Questions That Form a Framework for Copyright Analysis

1. Is the work protected by copyright?
   • Is the work I want to use protected by copyright, or is it in the public domain?
   • If I wrote it, do I still own copyright, or did I sign over rights for my intended use to the publisher?

2. Is there a specific exception in copyright law that covers my use?
   • Is my intended use covered by a specific exception to the exclusive rights in the copyright law, such as the one for libraries or for classroom performances and displays?

3. Is there a license that covers my use?
   • Is there a Creative Commons license attached to the work? If so, can I comply with the terms of the license, or can I find another useful work that is CC-licensed?
   • If affiliated with an educational institution, is there a license that governs how the copyrighted material I’m accessing through my library can be used? If so, can I comply with the license terms? If you are uncertain, your librarian should be able to help you.

4. Is my use covered by fair use?
   • Four factors are:
     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; and
     4. the effect of the use upon the potential market for or value of the copyrighted work.
   • Questions for transformative fair use under factor one are:
     1. Does the copyrighted material help me make my new point?
     2. Will it help my readers or viewers get my point?
     3. Have I used no more than is needed to make my point? (Is it “just right”?)

5. Do I need permission from the copyright owner for my use?
   • If so, first locate the copyright owner and fully explain your intended use in your permission request.
   • If no response or answer is no, reconsider your use of this work to see if you can make a fair use, or consider using another work.

There is also this helpful checklist from UNC Charlotte to make sure you’ve thought of everything:
http://copyright.uncc.edu/copyright/teach/teachbasicchecklist.

From: Copyright for Educators & Librarians (Duke University, Emory University & University of North Carolina at Chapel Hill)