

Plagiarism Guidelines
Massachusetts Junior Duck Stamp Program

The Law

"Copyright is a form of protection provided by the laws of the United States (title 17, U.S. Code) to the authors of 'original works of authorship' including literary, dramatic, musical, artistic, and certain other intellectual works."¹ This protection includes authorship of photographs. When a photograph has been published it cannot be copied except with the express permission of the owner of the photograph. It is a violation of copyright law to prepare derivative works based upon the copyrighted work. It is also important to note that works do not have to bear the copyright symbol © to be protected. "Copyright is secured **automatically** when the work is created, and a work is 'created' when it is fixed in a copy or phonorecord for the first time."² The copyright protection extends "from the moment of its creation, and is ordinarily given a term enduring for the author's life, plus an additional 50 years after the author's death"..."for anonymous and pseudonymous works (unless the author's identity is revealed in Copyright Office records), the duration of copyright will be 75 years from publication or 100 years from creation, whichever is shorter."³ Transfers of copyright are normally done through contract, that is, an artist or photographer may sell his copyright in various forms including first use, one-time use, limited use, or unrestricted use. It is then legal to use the work, but only under the terms of the contract.

Using Photographs as Reference for Works of Art

Most artists will freely admit that they use photographs as reference tools for their works of art. There are many unspoken "rules" about this usage, and there are many instances where well-known artists have violated copyright law, sometimes blatantly. Gallery owners and publishers of fine art will carefully avoid dealing with an artist who violates copyright law, so it is important to teach art students to resist getting into the habit of closely copying from someone else's photograph or work of art. *This may well be the single most important lesson that you can teach your art students.* Plagiarism is a habit that can ruin a promising career, and it is usually uncovered under the most embarrassing circumstances. These artists lose their status in the art "business world", and lose the respect of their peers.

Here are the guidelines as most professional artists practice them:

- ◆ **DO NOT** - copy someone else's photograph to create a work of art.
- ◆ **DO NOT** - copy a picture that has been printed in any form including book, magazine, etc.
- ◆ **DO NOT** - copy a major part of a photograph (an animal for instance) and place it in a different setting. This is a "grey" legal area, but it is considered unethical by most professional artists. If you have to search to find the difference between your work and the reference work you have gone WAY too far.

- ◆ **OK** - to copy your own photograph to create a work of art.
- ◆ **OK** - to buy the rights to use a photograph from the photographer, but remember that you **do not** obtain the right to copy someone's art or photograph by simply purchasing a book or magazine containing their images.
- ◆ **OK** - to copy works that have exceeded the time limits for copyright protection

¹ Copyright Basics. Circular 1, pg. 1. U.S. Government Printing Office, Washington, DC. 1995.

² Copyright Basics. Circular 1, pg. 3. U.S. Government Printing Office, Washington, DC. 1995.

³ Copyright Basics. Circular 1, pg. 6. U.S. Government Printing Office, Washington, DC. 1995.